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Senate

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR THE FISCAL YEAR 2006—Continued

The PRESIDING OFFICER. Who yields time in opposition?

Mr. GREGG. There is 7½ minutes remaining in opposition?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. There is story after story for everything in this country. The problem is, if we start funding all the stories, we will run out of money and tax our kids so they cannot afford it and tax ourselves so we cannot afford it.

The issue is setting priorities. The President has suggested a priority in the area of CDBGs. I suspect this Congress is not going to accept that priority, but it should function within the caps that have been set in order to decide whether it chooses that priority.

This is a reasonable approach, to set a cap and then say to the Appropriations Committee, you decide whether CDBGs make more sense than some other program that would compete for the same amount of money.

I will not vote for either of these amendments, but if I had to vote for one or the other, I would be more inclined to vote for the one from the Senator from Minnesota because he does not impact caps and takes it out of something called 800 which is the general operation of the Government which means basically a cut to IRS and other operating accounts within the Government.

I don't think that should be the way we should approach this. We should, rather, allow the Appropriations Committee to make decisions on this and we should not be arbitrarily in the Senate reallocating money from IRS over to the CDBG Program on the basis of anything, including stories.

I understood the Senator from Maryland wanted a couple of minutes.

I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I commend the Senator from Minnesota for a very eloquent statement about the effectiveness of the CDBG program. Of course, he has absolutely firsthand experience with it having been a mayor of one of our great cities. I appreciate his analysis of the worth of the CDBG program.

I simply make this point, and this is a broader priorities question: The amendment I have offered derives the funding, in order to restore the money, by closing tax loopholes—the very provisions that passed the Senate overwhelmingly last year 92 to 4 on the FSC/ETI bill. A lot of these provisions were dropped in conference. The ones dropped would produce $27 billion over a 5-year period. So there is not much argument about the necessity of closing these loopholes. The overwhelming judgment here was that ought to be done. That would then avoid cutting other programs.

There is a dilemma here. I understand that. If we are trying to keep things neutral as far as contributing to the deficit is concerned, then the question becomes, do you cut other programs in what is, I think, an already extremely tight budget. So you fund CDBG, but you would diminish the funding for housing, education, and other programs—across the board. The alternative is to find a revenue source in which there is general agreement in terms of an abuse of the Tax Code.

Now, the chairman refers to that as taxing and spending. I do not know how you spend if you do not tax unless you are going to run up a deficit. I regard that as responsible budget making.

You always have to use reasoned judgement and analysis in terms of what is fair and right. The proposal here is to close some of those tax loopholes. There has been an overwhelming judgment that those loopholes should be closed. The amount of revenue produced by closing the loopholes dropped in conference is three times what it would cost to restore the CDBG Program. Thus closing only some of them would produce sufficient revenue to restore these programs.

The PRESIDING OFFICER. The Senator has consumed 2 minutes

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I thank the Senator from Maryland.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The Senator from Mississippi.

AMENDMENT NO. 208

(Purpose: to modify the designation authority for an emergency requirement)

Mr. COCHRAN. Madam President, I call up amendment No. 208, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 208.

On page 42, line 14, strike ''that'' and all that follows through ''designates'' on line 15 and insert: ''that the Congress designates as an emergency requirement''.

The PRESIDING OFFICER. There is 10 minutes evenly divided on this amendment.

The Senator from Mississippi.

Mr. COCHRAN. Madam President, section 402 of the pending budget resolution establishes a procedure for designating emergency appropriations that I believe creates a new and unnecessary hurdle for Congress in responding to emergency situations. It distorts the balance of power between Congress and the President.

Section 402 permits an emergency designation of an appropriation to be challenged on a point of order and provides that the point of order can be waived only by a vote of three-fifths of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the Senate. That point of order has been incorporated in budget resolutions for several years now. It was put in place to curb what was seen as an overuse of the emergency designation to escape the limitations of the caps on discretionary spending. It has served successfully to impose restraint on emergency designations.

But now, in this resolution, the distinguished chairman of the Budget Committee has included, in addition to that requirement, the further requirement that the President must also designate the appropriation as an emergency in order for it to escape being counted against the budget resolution caps for discretionary spending.

While it is true the Presidential designation was part of the process in the original Budget Enforcement Act of 1990, that legislation was a comprehensive measure with a number of budget enforcement provisions, and was before the three-fifths or 60-vote requirement had been imposed on the process. It seems to me we do not need both the 60-vote requirement and the new Presidential designation requirement.

Let me suggest a hypothetical situation. Let us say this provision were in place when this body takes up the President's emergency supplemental request, which has been passed by the other body. Let us say that an amendment is offered on the floor to address an emergency situation not included in the President's budget request, and its emergency designation is challenged by a point of order here in the Senate, and, further, that an overwhelming majority of the Senate votes to approve the emergency designation. Despite the size of the vote in the Senate, so long as it is over 60, and even if the President signs the bill into law, if the President declines to specifically and expressly concur with the congressional emergency designation, the appropriation will be counted against the discretionary cap by the Budget Committee scorekeepers. This is even though the President approves the appropriation.

My suggestion is by signing the bill the President approves the decision of the Congress that the funds are needed, and that they should be spent, and that they are needed to address an emergency.

So despite a substantial majority vote here in the Senate on a particular appropriation provision, despite congressional approval of an appropriations bill, including its emergency designation, and despite the President signing the bill, approving the bill with this provision in it, the President can effectively nullify the action of the Congress relative to the caps on spending set by Congress in its own budget resolution.

I believe the inclusion of this additional Presidential power should be stricken from this resolution and we should enforce our budget provisions with the 60-vote point of order as provided by our rules and under the law. Congressionally imposed caps on spending should be set and enforced by Congress, not by the President.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time in opposition?

Mr. GREGG. Madam President, I rise in opposition.

Mr. BYRD. Madam President, will the Senator yield?

Mr. GREGG. How much time would the Senator need?

Mr. BYRD. Two minutes.

Mr. GREGG. Madam President, I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator, the chairman of the committee, for his characteristic courtesy.

I rise, Madam President, to express my admiration for Senator COCHRAN as he assumes the duties of chairman of the Senate Appropriations Committee. Today, I stand with Chairman COCHRAN in support of his amendment concerning the authority of Congress to designate funding as an emergency.

In the Constitution, there is no ambiguity about which branch of Government has the power of the purse. It is the congressional power of the purse which is the central pillar of the system of checks and balances under our Constitution. The budget resolution that is before the Senate includes a provision which makes the ability of the Congress to designate funding as an emergency subject to the approval of the President.

The measure that is before the Senate is a budget resolution. It is not a law. It will not be sent to the President for his approval. The Congress should not use a budget resolution to tie its own hands on spending decisions. The Congress should not tie its own hands in determining whether an expenditure for war, or an expenditure for victims of a flood, hurricane, or earthquake is an emergency. The Senate should not have to get on its knees and plead with any President for his permission to designate a provision as an emergency. The Congress is a coequal branch of Government under our Constitution, and it should jealously guard the prerogatives associated with the power of the purse, so wisely preserved for the legislative branch by our Founding Fathers.

If the Senate wants to provide emergency funding for agriculture disaster relief, or for responding to a recent flood or hurricane, or to provide additional funding to the Department of Defense for body armor, it must have that authority. The Cochran amendment makes clear Congress retains that authority.

I urge adoption of the amendment.

Again, I thank the chairman.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, a lot of folks around here talk about budget reform, and this is budget reform in that it returns us to the days when the President was treated essentially this way, back under President Clinton, under President Bush the first. I think it is important to know what the issue is.

The issue is not defense spending, because the proposed budget point of order and the Presidential involvement does not apply to defense spending. So with regard to the supplemental that is coming at us, the majority of which is defense spending, it does not affect that. It is nondefense areas where basically emergency designations are used to avoid the cap.

The cap is the enforcement mechanism on the discretionary side. There are going to be instances where we are going to have to go through the cap because there are legitimate emergencies—hurricanes, the tsunami. But the simple fact is, there are also instances where we have used the emergency designation, such as for oyster farming, where maybe they were not quite emergencies, and yet they allowed the cap to be avoided for that spending item.

This tries to put some balance back into the process of when we are going to have domestic emergencies and when we are not, and making sure the President is part of that process, which has traditionally been the way we did it around here. So I think it is reasonable change.

I understand the chairman and the ranking member of the Appropriations Committee are concerned because it may well impact them, although I suspect with this President they will be able to work out an understanding that they will agree on. But I do think it is an enforcement mechanism that is appropriate at this time.

Madam President, do I have any time left?

The PRESIDING OFFICER. There is 1 minute 20 seconds remaining.

Mr. GREGG. I yield that back.

The PRESIDING OFFICER. Time is yielded back.

The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that following this debate which has just been completed, the following times be allocated specifically for Members to offer their amendments; provided further, that if the Senator is not here during the allocated time, the clock run against the time reserved for the amendment.

I send a list of those allocations to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts.

AMENDMENT NO. 177

Mr. KENNEDY. Madam President, I inquire, I believe in the order of matters it is appropriate now to consider amendment No. 177, and there is a 15-minute time limit on it. Am I correct?

The PRESIDING OFFICER. There is a 15-minute time limit on the education amendment. Does the Senator call up the amendment?

Mr. KENNEDY. Yes, I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. DODD, Mrs. MURRAY, Mr. LIEBERMAN, Mr. CORZINE, Mr. KERRY, Mr. SARBANES, and Mr. REED, proposes an amendment numbered 177.

The amendment is as follows:

(Purpose: To reduce the deficit by $5.4 billion and support college access an equal amount by closing $10.8 billion in corporate tax loopholes and: (1) restoring education program cuts slated for vocational education, adult education, GEAR UP, and TRIO, (2) increasing the maximum Pell Grant scholarship to $4,500 immediately, and (3) increasing future math and science teacher student loan forgiveness to $23,000)

On page 3, line 10, increase the amount by $1,446,000,000.

On page 3, line 11, increase the amount by $7,606,000,000.

On page 3, line 12, increase the amount by $1,332,000,000.

On page 3, line 13, increase the amount by $454,000,000.

On page 3, line 14, increase the amount by $110,000,000.

On page 3, line 19, increase the amount by $1,446,000,000.

On page 3, line 20, increase the amount by $7,606,000,000.

On page 3, line 21, increase the amount by $1,332,000,000.

On page 4, line 1, increase the amount by $454,000,000.

On page 4, line 2, increase the amount by $110,000,000.

On page 4, line 7, increase the amount by $5,389,000,000.

On page 4, line 8, increase the amount by $5,000,000.

On page 4, line 9, increase the amount by $15,000,000.

On page 4, line 10, increase the amount by $25,000,000.

On page 4, line 11, increase the amount by $40,000,000.

On page 4, line 16, increase the amount by $723,000,000.

On page 4, line 17, increase the amount by $3,803,000,000.

On page 4, line 18, increase the amount by $666,000,000.

On page 4, line 19, increase the amount by $227,000,000.

On page 4, line 20, increase the amount by $55,000,000.

On page 4, line 24, increase the amount by $723,000,000.

On page 4, line 25, increase the amount by $3,803,000,000.

On page 5, line 1, increase the amount by $666,000,000.

On page 5, line 2, increase the amount by $227,000,000.

On page 5, line 3, increase the amount by $55,000,000.

On page 5, line 7, decrease the amount by $723,000,000.

On page 5, line 8, decrease the amount by $4,526,000,000.

On page 5, line 9, decrease the amount by $5,192,000,000.

On page 5, line 10, decrease the amount by $5,419,000,000.

On page 5, line 11, decrease the amount by $5,474,000,000.

On page 5, line 15, decrease the amount by $723,000,000.

On page 5, line 16, decrease the amount by $4,526,000,000.

On page 5, line 17, decrease the amount by $5,192,000,000.

On page 5, line 18, decrease the amount by $5,419,000,000.

On page 5, line 19, decrease the amount by $5,474,000,000.

On page 17, line 16, increase the amount by $5,389,000,000.

On page 17, line 17, increase the amount by $723,000,000.

On page 17, line 20, increase the amount by $5,000,000.

On page 17, line 21, increase the amount by $3,803,000,000.

On page 17, line 24, increase the amount by $15,000,000.

On page 17, line 25, increase the amount by $666,000,000.

On page 18, line 3, increase the amount by $25,000,000.

On page 18, line 4, increase the amount by $227,000,000.

On page 18, line 7, increase the amount by $40,000,000.

On page 18, line 8, increase the amount by $55,000,000.

On page 30, line 16, decrease the amount by $1,446,000,000.

On page 30, line 17, decrease the amount by $10,948,000,000.

On page 36, line 21, increase the amount by $8,000,000.

On page 36, line 22, increase the amount by $8,000,000.

On page 36, line 23, increase the amount by $93,000,000.

On page 36, line 24, increase the amount by $93,000,000.

On page 48, line 6, increase the amount by $5,381,000,000.

On page 48, line 7, increase the amount by $715,000,000.

Mr. KENNEDY. Madam President, during the last few days, we have voted on various education amendments. I want to direct the attention of our Members to some of the facts as we are coming to the final consideration of this amendment.

Fact No. 1: The chairman's mark in the 2006 budget, if you look on page 5, you will see education, training programs, and you see that there will be cut $2.5 billion now, $4 billion in the second year. According to the best estimate we have, from the Center on Budget and Policy Priorities, cumulatively over 5 years this will be $40 billion. Those who are opposed to our amendment will say, you have a $5 billion higher education trust fund. But as the chairman of our committee pointed out, that basically is a phony mark.

The chairman of our committee, Mr. ENZI, says that chairman's mark contains a $5 billion reserve for new initiatives coupled with approximately $5 billion in spending cuts. In order to get the $5 billion in reserve funds, you have to effectively have these cuts plus the reconciliation cuts. What we are talking about basically are very dramatic and significant cuts in education.

This amendment does two basic things. First, it will ensure that we will reach $4,500 in Pell grants. Second, it will fund the cuts that are proposed by the President in terms of TRIO and GEAR UP so that we will help the needy children in that area. Third, it will ensure that we are going to provide funding for vocational education, special skills, the adult education program, so we are going to have a continuing upgrade of American skills. That is one important part of this amendment.

The second important part is the part of the amendment that gives attention to where the United States is in terms of a global challenge. I personally believe that the greatest challenge we are facing today is globalization, and the challenge we ought to respond to is to make sure that our people will be able to deal with the global challenge. And that means investing in math and science.

This amendment will fund education for math and science teachers in a similar way that we did at the time we were threatened with sputnik in 1957. With this amendment we will effectively get 50,000 to 60,000 more math and science teachers every year.

We have seen what has happened to the United States in the area of math and science. In 1975, we were third in the world in terms of math and science and engineering degrees. By the year 2000, we were 15th in the world, and we are going down. This budget resolution will drive us down further. This amendment provides a stopgap to that and the opportunity to make significant gains. That is what this is about.

We know that the Chinese are graduating three times as many engineers as the United States will this year. India is graduating three times as many computer scientists as we are. If we just think that we can go along with business as usual, we are missing an enormously important opportunity and responsibility. We need this kind of investment. We need it so that we will be able to compete globally in terms of the economy. We need this investment so that we will be able to compete from a national security point of view. Investing in our young people is an essential part of our national security. We cannot tolerate the kinds of cuts that are included in this legislation. This amendment addresses that.

Those on the other side will say we have increased education funding by all these percentages in recent years. We have increased funding in education, but it is still totally inadequate. The fact is, most of the increase has been the result of action on this side. I wish we had been able to meet our responsibilities.

If you look at what is happening currently in terms of high school dropouts, these are three of the large high schools in Los Angeles—it is difficult to see, but you should be able to see the trend lines—Roosevelt High School, Garfield High School, and Huntington Park High School. You see the dramatic dropout that is taking place across the country. That is happening in our high schools.

Talk to any principal, talk to any school board, talk to any of those involved in education—they know what is not happening; that is, getting a good education.

Finally, for every 100 ninth graders, 68 of those graduate from high school out of every 100; 40, when they graduate, will enroll in college. Only 27 will stay enrolled as sophomores, and only 18 graduate from college on time out of the 100.

Money is not the only answer. Money in a number of instances isn't the answer. But investing in resources is an indication of our national priority. It does seem to me that we can afford the $5.4 billion which is offset and paid for with the close of tax loopholes in a proposal that also includes $71 billion in tax reductions for individuals. That is what this whole proposal is about. That is what this budget is about: the question of priorities. This is a $5.5 billion investment in our children, offset—not increasing the deficit—with the closing of tax loopholes which has been accepted by the Senate in a proposal that is already providing $71 billion in tax reductions. It does seem to me that this is more of an expression of the values of the American people. Five billion is a lot, but we know that investing in our young people, investing in math and science, is key to our future. It seems to me to be something that the American people should and will support. I hope this amendment will be accepted.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, the Senator from Massachusetts is correct. Money does not solve the problem of education. If it did, the city of Washington would have the finest schools and the best academic experience in the country instead of the worst. The students regrettably score at the bottom of the Nation year in and year out. Yet on a per capita basis, more money is spent per child here in Washington than any place else in America: $12,000 a year per child. I congratulate the present Mayor for trying to address the issue through creating choice within the school system. But that is a fact. Money does not necessarily solve education problems.

However, in the area of money, this Presidency has done a dramatically better job than the prior President in his commitment to increasing education dollars. Since coming into office, President Bush's increase in education exceeds that of President Clinton by 33 percent. His increase in funding for title I exceeds that of President Clinton by 52 percent. His increase in IDEA funding exceeds that of President Clinton by 75 percent. His increase in funding of No Child Left Behind exceeds President Clinton's areas in approximately the same programs by 46 percent. In this budget proposal, the President has proposed adding another $500 million in IDEA, $600 million in title I, $1 billion in No Child Left Behind, and half a billion dollars into Pell grants.

In addition, this budget itself sets up the process for significant increases in funding in the Pell grant area so that we can get to a $4,150 grant next year. And if we follow the proposal of this budget, we will get to a $5,100 grant for people who use Pell grants and go to college for 4 years and complete their schooling.

In addition, we put in $5.5 billion, approximately, in order to reauthorize the Higher Education Act. And yes, it is paid for in large part, but it is paid for by basically ratcheting down on lenders. I suspect the Senator from Massachusetts will be comfortable with many of the pay-fors which Senator ENZI comes up with in committee. So the education commitment of this administration has been extraordinarily strong, and this budget puts forth some very creative and unique ideas for going forward on that aggressive approach.

This amendment is not the way to proceed. The Senator from Massachusetts has never been a wilting violet on the concept of increasing taxes. This amendment reinforces that fine track record as it increases taxes by $10.9 billion. In fact, the entire other side of the aisle has not been much in the way of wilting violets on the issue of increasing taxes.

So far we have had approximately seven amendments that we have accounted for. I think there are a lot more floating around here that we have not yet accounted for that had they been passed or if they are passed—four of them were, fortunately, defeated—would have added $47 billion. That doesn't count this $10 billion. So we are up to almost $60 billion of new taxes that has been proposed so far. I suspect that number is understated because I think we are missing five or six amendments that had been suggested in the last few hours late last evening.

So there is no question but there is a philosophy on the other side which this side is trying not to subscribe to, which is that you just raise taxes and you spend more money and that solves the problem. That doesn't solve the problem. The problem is that we have to set priorities, and within those priorities, some programs of the Federal Government should be funded more aggressively than others.

What the President has suggested specifically is that the core educational initiatives of the Federal Government—No Child Left Behind, title I, special education, Pell grant, higher education—will be funded extremely aggressively. The Congress may not decide to choose to follow that course of action, but at least we should go forward with the concept that we are going to set the priorities within a budget that we can afford and not break that budget and raise taxes on the American people.

Therefore, I oppose this amendment.

I yield back the balance of my time.

Ms. COLLINS. Mr. President, I am pleased to rise in support of Senator KENNEDY's amendment to increase education funding in the budget by $5.4 billion. This amendment will provide additional budget authority for the purpose of addressing many important education needs, including ensuring continued funding for TRIO, GEAR UP, and Perkins vocational education. In addition, this amendment will include funding to raise the maximum Pell grant award to $4,500 this year, which is one of my top legislative priorities for this year.

Our system of higher education is in many ways the envy of the world, but its benefits have not been equally available. Unfortunately, it is still the case that one of the most determinative factors of whether students will pursue higher education is their family income. Students from families with incomes above $75,000 are more than twice as likely to attend college as students from families with incomes of less that $25,000.

To help remedy these inequities, the Federal Government has wisely invested in a need-based system of student financial aid designed to remove these economic barriers. Central to this effort for the past 30 years has been the Pell grant program.

The Pell grant program is the single largest source of grant aid for postsecondary education funded by the Federal Government. It provides grants to students based on their level of financial need to support their studies at the institutions they have chosen to attend.

I have long supported efforts to raise the Pell grant maximum award. I am pleased by the efforts of the Budget Committee to provide a $100 increase in the Pell grant maximum award for this year. But I believe it is imperative that we succeed in providing a more substantial increase in the maximum grant this year.

That is why, as my first legislation of this year, I introduced Senate Resolution 8, calling on the Senate to increase the Pell grant to $4,500 this year. I am very pleased to have Senators FEINGOLD, COLEMAN, KENNEDY, and DURBIN joining me as cosponsors of this resolution. They are all leaders in the effort to expand access to higher education.

The amendment before us builds on the efforts of my resolution, by following up to ensure sufficient budget authority to meet this goal.

While I understand that we face many difficult decisions on the budget resolution before us, I believe that a $450 increase is an imminently reasonable and achievable goal for this year—especially in light of the fact that the Pell maximum grant has gone essentially unchanged for 4 years. After receiving a modest increase of $50 in 2002, the maximum award has been stuck at the $4,050 level for 2003, 2004, and 2005.

In the meantime, the cost of attending college has continued to rise. The combination of these factors over the past 4 years has led to a significant erosion in the purchasing power of the Pell grant, and has forced students to rely increasingly on loans to finance their higher education.

In 1975, the maximum Pell grant covered approximately 80 percent of the costs of attending a public, 4-year institution. Today, it covers less than 40 percent of these costs, forcing students to make up the difference by taking on larger and larger amounts of debt.

The decline in the value of grant aid and the growing reliance on loans have serious consequences for access to higher education for low-income students. The staggering amount of loans causes some students to abandon their plans to attend college altogether. According to the College Board, low-income families are significantly less willing, by almost 50 percent, to finance a college education through borrowed money than their wealthier counterparts.

That does not surprise me. Many working families in Maine are committed to living within their means. Understandably, they are extremely wary of the staggering amount of debt that is now required to finance a college education.

I also know this to be true from my experiences as a college administrator at Husson College in Maine. At Husson, 85–90 percent of students currently receive some sort of Federal financial aid, and—approximately 60 percent of students receive Pell grants.

As Linda Conant, the financial aid director at Husson told me:

> You cannot imagine how difficult it is to sit with a family and to explain to them the amount of loans that are needed to finance a post-secondary degree. It scares them. That is why Pell grant aid is so important for low-income families. For these families, loans don't always work, but Pell does.

We also know that having a well-educated workforce is crucial to our economic future and competitiveness in the global economy. The Bureau of Labor Statistics has projected that over the next 10 years, there will be significant growth in jobs requiring at least some post-secondary education. So increasingly, higher education is going to be necessary to ensure employability and to prepare Americans to participate in tomorrow's economy.

That is why Pell grants are so important. Pell grants make the difference in whether students have access to higher education, and a chance to participate fully in the American dream.

Mr. President, Pell grants are targeted to the neediest of students—recipients have a median family income of only $15,200. An additional $450 in Pell grant aid may very well be the deciding factor on whether these students can pursue their college dreams.

The Pell grant program is the foundation of making good on the American promise of access to higher education. Now is the time for us to make a commitment to raising the Pell maximum award to $4,500 for the upcoming award year. I hope that my colleagues will join me in supporting this amendment.

Mr. REED. Mr. President, I am pleased to cosponsor Senator KENNEDY's amendment to the, fiscal year 2006 budget resolution. This amendment would ensure the necessary investment in education to secure our Nation's continued prosperity.

This amendment would focus on three areas critical to boosting educational opportunity and our economy. First, it would make college more affordable and accessible. The amendment would raise the maximum Pell grant by $450, to $4,500, a long overdue and necessary increase for millions of students who struggle to keep up with ever-rising college tuition. It also would restore a host of programs that give low-income Americans a lifeline to college. The President seeks to eliminate programs like TRIO, GEAR UP, and LEAP, which have opened doors for students who otherwise might never consider a college education, let alone be able to afford it.

Second, this amendment would make a crucial difference for high-need schools. We cannot remain global leaders in technology if we do not maintain a world-class standard of education in math and the sciences for all students. Yet we have a shortage of highly qualified teachers in these very areas. This amendment would use loan forgiveness as an incentive to attract and retain 57,000 teachers in math, science, and another woefully understaffed arena, special education.

Finally, this amendment would ensure the future competitiveness of the workforce by preserving investments in workforce development, adult literacy, and vocational education. In voting to reauthorize and improve the Carl D. Perkins Career and Technical Education Act, 99 Senators just last week recognized the indispensable nature of the act, despite the President's efforts to eliminate it. With this amendment we can restore funding for Perkins programs as well as for job training and literacy programs that give adults the tools they need to be economically productive.

The investment in these commonsense measures is one we cannot afford to forego. I urge my colleagues to join me in voting for this amendment.

AMENDMENT NO. 234

The PRESIDING OFFICER (Mr. ENSIGN). There will now be 30 minutes of debate equally divided on the Baucus-Conrad amendment on agriculture.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 234.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To ensure that legislation to make cuts in agriculture programs receives full consideration and debate in the Senate under regular order, rather than being fast-tracked under reconciliation procedures)
>
> On page 28, strike lines 14 through 20.

Mr. BAUCUS. Mr. President, this amendment is critical to my home State of Montana and to most States in the Nation. It is agriculture. Agriculture is the financial engine that drives, certainly, my State's economy. It brings in $2 billion of annual revenue plus benefits to rural communities and to our State generally. One in five Montana workers is employed in agriculture or a related field.

But this amendment is important not just to Montana; it is important to the Nation. America's agricultural producers provide us with the safest and highest quality food supply in the world. We all know that. It is worth repeating. It is worth remembering. Sometimes we take things for granted. Our agricultural producers in America provide us with the safest, highest quality food supply in the world. Americans are extremely fortunate to enjoy those benefits.

Agriculture is a small part of the Federal budget, but it is expected to shoulder huge cuts, very disproportionate cuts in this budget resolution.

The Senate budget resolution calls for a reduction in mandatory agricultural programs of $5.4 billion over 5 years. The budget resolution puts $2.8 billion of those savings on fast track through reconciliation.

I was one of the farm bill negotiators and supporters of that legislation, but I disagree with some of the provisions within the law. The 2002 farm bill represented a delicate balance between diverse interests. It was very tough to put that together. The 2002 farm bill was a 6-year bill, not an on-and-off bill but a 6-year bill, and people had reason to expect it settled farm policy for 6 years. People have to plan, to have a sense of what is going on. It is not just farmers, but bankers, equipment suppliers, and farm implement dealers. Producers and bankers who made financial decisions to enter into contracts with the understanding that the farm bill would not be renegotiated until 2007, that was their understanding.

If Congress proceeds with the agriculture cuts in this budget resolution, we will be cutting nutrition, not just the six basic crops in the farm bill, but cutting nutrition, conservation, and forestry programs. These cuts are not directed solely at the commodity programs. In fact, they are directed at many other segments of the whole agriculture bill.

The Senate should put off the policy discussions that are behind these cuts until we begin debate on the new farm legislation. That is the appropriate time to debate these policy discussions, not in the budget resolution to cut for the sake of cutting. The commitment

that Congress and the President made to farmers, to conservatives, and the neediest in our society should be maintained until a new farm bill is developed.

Proposed mandatory spending cuts will also unilaterally disarm our trade negotiators, especially our agricultural trade negotiators. The United States recently lost its appeal of the World Trade Organization dispute panel decision concerning domestic cotton. It is not widely known, but it should be well understood, the implications of that decision.

At the same time, we are negotiating a new global trade agreement with the WTO, of which agriculture is a critical part. That decision is going to put our agricultural producers and our agriculture program in jeopardy. We should, therefore, not commit to the substantial agriculture policy changes that this resolution would require while we are engaged in those trade talks. We should not unilaterally disarm. It makes no sense, and I cannot understand for the life of me why this budget resolution unilaterally disarms our farmers before we go into negotiations. Some argue the proposed cuts are good for our negotiators because they demonstrate to other countries that the United States is serious about agriculture reform.

I have learned through very hard, bitter experience that no country altruistically, out of the goodness of its heart, if it has any sense, is going to lower a trade barrier. They do not unless they have to. You have to provide leverage. There are many examples where the United States had to exercise leverage to get other countries to lower a trade barrier. It takes leverage. They just do not do it out of the goodness of their heart.

If we do that, think what the Europeans are going to do. They are going to say: Oh, those Americans, they have already eliminated their agriculture program, they have cut their supports, so we Europeans do not have to go quite so far. I tell you, it makes no sense, no sense whatsoever for this Congress to pass a budget resolution which cuts agriculture by such a dramatic amount.

In 2002, total EU domestic supports plus export subsidies totaled $37 billion. What was ours? What was the U.S. comparable figure? It is about $17 billion, and that is just actual spending.

Look at that: Europeans have twice the amount of agricultural support payments that we have, twice as much as the United States has—more than twice as much as the United States has. Yet we are coming before this body and saying we are going to cut agriculture even more, while the Europeans have close to three times the amount of subsidies we have. I do not think that makes much sense.

The total amount agreed to in the WTO Uruguay Round is $81 billion for the EU and $19 billion for the United States. Just think of that. That was the Uruguay Round. That was a mistake. Mr. President, 81 for them, 19 for us. These cuts contained in the budget resolution, to which I am opposed, are, therefore, clearly ill timed. This is the wrong time to do this. Developing countries, in particular, have offered very little in agricultural talks. If we pass this resolution, they are going to ask themselves: Why should they? They can keep their sky-high tariffs on agricultural products and still get the United States to cut its support of U.S. agricultural programs.

We also lose bargaining power to push for changes to the European's agricultural policy. That policy transformed postwar Europe from the world's largest food importer to one of the world's largest net exporter of agricultural products.

Let me state what happened. This pretty much demonstrates what happened in this country, why agricultural producers in the United States are in tough shape. In the 1970s, the European Union was the world's largest net importer of agricultural products. They decided that is wrong; we have to do something about it. So they did. What did they do? They implemented massive agricultural support payments for their farmers so that in a 10-year time in the mid-1980s, Europe became the largest net exporter of agricultural products. It was a big shift from the world's largest importer to the world's largest exporter in 10 years, and that is where they stayed. That is what we face. That is why it is wrong right now in this budget resolution to further cut agricultural payments which are disproportionate right now.

Our farmers and our ranchers can compete with anybody in the world just as long as the playing field is level, but we should not put American farmers and ranchers at a disadvantage by cutting U.S. programs just as we are seeking changes in other countries' programs. We should not unilaterally disarm. We should not unilaterally disarm agriculture just as the trade talks reach a critical point. They are upcoming. To do so would not just be unwise, it would be reckless.

Agriculture is being asked to make a substantial and disproportionate contribution to spending reductions. This is unjustified. There are other cuts in this budget not nearly as great as the ones agriculture will face. I just think it is sensible to support this amendment so we do not cut agriculture the way proposed in this resolution. It makes no sense.

I see some of my colleagues on the floor who wish to speak on this amendment. I see Senator CONRAD. I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. I thank my colleague.

Mr. President, the amendment before the Senate strikes the budget reconciliation instructions to the Senate Committee on Agriculture. The amendment deletes the requirement that the Senate Agriculture Committee report legislation that reduces outlays by $2.8 billion. It does not change the other budgetary assumptions for agriculture contained in the resolution.

The fact is, agriculture has already contributed substantially to deficit reduction. We are far below in funding what the farm bill called for. We are $16 billion below what the farm bill anticipated. If the national media ever reported something incorrectly, they reported incorrectly the effect of the last farm bill on agriculture spending. You would have thought, reading the national press, that agriculture got an enormous increase, a 60-percent increase. Wrong. Agriculture did not get an increase, agriculture got less money. What they left out were the disaster bills we had been reporting and passing year after year. Here is the pattern of farm program spending, and this shows the spending went down. It did not go up. The national media just got it wrong.

This is in the midst of a circumstance in which our major competitors are providing far more funding to their producers than we are providing to ours. Our major competitors are the Europeans. Here is what they are doing. They are providing $277 an acre of support each and every year for their producers. The comparable amount in the United States is $48. So they are outgunning us over 5 to 1.

It is not just in domestic support. It is also in international subsidies, subsidies for export. Here is the European Union's part of world agricultural subsidies. They account for 87 percent of world agricultural export subsidies. This is the U.S. share—1 percent. They are outgunning us 87 to 1.

Right now we are entering negotiations with the WTO to try to level the playing field. Let me remind my colleagues, this is what Europe is doing for their farmers. These are not KENT CONRAD's numbers, these are the international scorekeepers' numbers, OECD: Europe, $277 an acre per year per producer; the United States, $48. On export subsidy, Europe accounts for 87 percent of all the world's agricultural export subsidy; the United States is 1 percent. They are outgunning us 87 to 1.

We are just entering negotiations to try to level the playing field. Why would we ever unilaterally disarm in the midst of a trade dispute? We would never do that in a military confrontation. Why would we do it in a trade confrontation?

Unilaterally cutting in the midst of the farm bill, in the midst of international negotiations, is a profound mistake. If anybody doubts what is happening, Europe has gone from being the biggest importing region in the world to the biggest exporting region, and they are now equivalent to us in world market share. Keep up with this strategy and America is going to become a second-class agricultural power.

This year, USDA forecasts we are going to import more agricultural production than we will export. That is a

stunning turnaround for the United States. We should not continue down that path.

I thank the Chair. I thank my colleague and yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 40 seconds remaining.

Mr. BAUCUS. Mr. President, I ask the distinguished Senator from North Dakota if he might have time he can allocate to other Senators, insomuch as the time remaining on this amendment has virtually expired.

Mr. CONRAD. The short answer is I do not. Under the agreement that has been reached, all time has been allocated among these various amendments, so there is no time remaining to allocate.

Mr. BAUCUS. I wonder if I can impose upon the very gracious generosity of the Senator from New Hampshire and ask if perhaps he could give a little time on this side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. Mr. President, I do have 5 minutes, I have been informed, that I can allocate. Let me give that 5 minutes that I have available.

Mr. BAUCUS. I thank the Senator. I yield 2 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, this is a critically important issue. I appreciate the work of my colleague from Montana and my colleague from North Dakota. This is about family farmers. The reconciliation instruction to take money from an account that is critically important for the survival of family farmers is just a bad instruction. My colleague from Montana wants to abolish that instruction.

Look, family farmers, in my judgment, have a lot of fights. They fight every year. They fight against bad weather, crop disease and insects, and they have to fight grain markets trying to make a living out under the yard light on the family farm. They should not have to fight the U.S. Congress and the administration.

We made a deal on the farm program. We made commitments on food programs. The family farmers should not have to face jeopardy from this Congress.

The fact is, this Congress has decided for family farmers that we want to provide a bridge across price valleys, so that when prices precipitously drop, we don't wash away all of the family farmers of this country. So we put together a farm program, an account in the budget that deals with ag. It all works together. I believe the recommendation to cut these funds is a recommendation that pulls the rug out from under America's family farmers.

Bad trade deals have undermined our farmers. Weather and insects and grain markets have undermined our family farmers. The last thing that should happen is for us to pull the rug out from under our family farmers.

I rise in strong support of the amendment offered by my colleague, Senator BAUCUS, from Montana. I hope the Senate will adopt this amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I yield 1 minute to the Senator from Arkansas, Mr. PRYOR.

Mr. PRYOR. Mr. President, in 2002, this Congress entered into a contract with our farmers, and today what we are discussing is—believe it or not—actually breaking that contract with America's farmers. Let's not just focus on the farmers, because the agriculture bill is much broader than that, including children and nutrition programs, poor people on food stamps, and every consumer who buys food in this country. As it now stands, America spends less on food than any other nation in the world. If this passes, that might change.

I support deficit reduction. We know that. The farmers have already contributed over $16 billion to deficit reduction. That is according to CBO. When you look at the numbers, they are very clear. Farm spending only amounts to less than one-half of 1 percent of Federal spending, but accounts for 17 percent of the Nation's GDP and 25 million jobs.

Mr. BAUCUS. Mr. President, I yield 1 minute to the senior Senator from Arkansas.

Mrs. LINCOLN. Mr. President, there is not enough time in the day for me to talk about agriculture because it is in my veins. I do come to the floor to support my colleague from Montana. A few weeks ago, I came to the floor to note my extreme disappointment in President Bush's ag budget proposal, and really his entire budget proposal as it relates to rural America. I reiterate my support for our farmers and our rural communities by speaking in strong support of this amendment.

Our agricultural producers and the folks who live in rural America are every bit a part of the fabric of this American family. There is no reason why they should be asked to carry a disproportionate share of the sacrifice in dealing with this historic debt. I join President Bush in wanting to deal with this historic debt. But there is no reason in this world why rural communities and agricultural producers——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, is there any of my time remaining?

The PRESIDING OFFICER. There are 45 seconds.

Mr. BAUCUS. I yield that to the Senator from Arkansas.

Mrs. LINCOLN. Thank you. I do want people in this country to know that the people in rural America, whether it is ag producers, who have absolutely no certainty about the things that contribute to what they have to do; they have no control over the weather, no substantial control over trade. Yet, they did have a role to play, as everybody in this body did, in the contract that came about in the farm bill.

This is not the appropriate place to breach that contract. It is not the appropriate place to turn on the people of rural America that support this great Nation in the safest, most abundant and affordable food supply in the world. We have an opportunity to look at what we can do for rural America.

I encourage my colleagues to support the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment: HARKIN, STABENOW, DAYTON, PRYOR, LINCOLN, SALAZAR, and CONRAD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I yield to the Senator from Montana for the purpose of a colloquy.

Mr. BURNS. Mr. President, I thank my chairman, who has almost an impossible job on this budget.

I rise to discuss this resolution and its impact on agriculture. I ask the Senator, is my understanding correct that this budget resolution directs the Senate Agriculture Committee to contribute toward deficit reduction by reducing mandatory program spending by $2.8 billion over the next 5 years? Is my understanding correct?

Mr. GREGG. Mr. President, I appreciate the question of the Senator from Montana. Yes, the Senator's understanding is correct. We took great care to assure that this budget resolution was constructed to provide the Agriculture Committee with the flexibility needed to achieve a reduction in the deficit while ensuring continued support for programs that provide a critical safety net for farmers and ranchers, promote conservation, and reduce hunger.

Mr. BURNS. I thank the chairman. I understand the challenges of attempting to reduce the budget deficit by reducing spending. I believe we have to get a budget resolution passed, and I know that the Senator has to make some difficult choices. I also note that $2.8 billion is a lot of money in Montana, especially given skyrocketing energy prices and the likelihood that this will be another drought year in Montana.

I ask the Senator, is it true that the House has asked their Agriculture Committee to reduce mandatory spending at a higher level than has been proposed by this budget resolution?

Mr. GREGG. Yes, the Senator is correct. I believe the House budget resolution proposes reducing mandatory spending for agriculture by $5.3 billion over the next 5 years. I add that the President's budget proposed to reduce mandatory program spending for agriculture by nearly $9 billion.

Mr. BURNS. I thank the Senator. In a perfect world, I would prefer no reduction in spending for agriculture at all. As you know, the 2002 farm bill has already contributed significantly to deficit reduction. Over the past 3 years, farm programs spending has been about $17 billion less than projected. So a lot of my farmers in Montana feel like they already ''gave at the office.''

However, we must face up to the reality of our budget situation and address this deficit. In doing so, however, reductions in spending must be proportionate. I urge the chairman, in the strongest manner possible, to keep the final budget resolution from asking for a higher level of mandatory program savings from agriculture than the $2.8 billion that we have included in this budget resolution.

Mr. GREGG. Mr. President, I will state that the Senator from Montana has been extremely persuasive. We started out with a budget number in this budget that essentially tracked the President's number in agriculture. But as a result of listening to the Senator from Montana and the Senator from Georgia, chairman of the Agriculture Committee, we have backed that number down rather dramatically from the original request of $9 billion by the President's $2.8 billion. And we have, as the Senator from Montana noted, at the request of the Senator from Georgia, given maximum flexibility to the Agriculture Committee so that they can reach that number. Remember, that is a 5-year number, not a 1-year number; the $2.8 billion is spent over 5 years. They can reach that number however it is deemed best in looking at it through the lens of the Agriculture Committee, where the real expertise resides.

I thank the Senator from Montana for his very constructive effort in this area. I assure the people of Montana he has certainly held their interests and put their interests first and aggressively pursued it.

Mr. BURNS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. GREGG. I yield the balance of our time to the Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I want to start out today by acknowledging the cooperation and thanking the chairman of the Budget Committee for working together with those of us who have real concerns about agriculture and, particularly, relative to, obviously, the numbers that are contained in the President's budget and the final number agreed upon between the Budget Committee, as well as the Agriculture Committee. I thank my friend, Senator BURNS from Montana, for his outstanding input into this and his persuasive arguments. It is because of things like that that we have been able to negotiate this number down to something that we think is now fair and reasonable.

Let me, first of all, say that I, too—like my Democratic colleagues on the other side alluded to earlier—came to the floor immediately after the President's budget was sent to the Hill. He was extremely critical of that budget relative to the requested deficit savings in agriculture.

I, too, was at the table when we negotiated the 2002 farm bill. On the House side, we felt like we had a good farm bill, and we got together with folks on the Senate side and crafted a bill that provides a real safety net for our farmers across America.

The fact is that that farm bill has worked exactly like those of us who crafted the farm bill wanted it to work—that is, philosophically. When times and yields are good and prices are up, there are very few Government payments going to our farmers. In tough times, when prices are low and yields are low, whether it be from drought or other circumstances, in agriculture country the Federal Government does extend a helping hand not to guarantee any farmer a profit, but it allows them to get through to the next year when times might get better.

That having been said, I discussed not just on the floor of the Senate my displeasure with the administration relative to their budget proposals, but I went directly to the President. I told the President face to face that I was very disappointed in the numbers that had been sent down here and that, at the end of the day, I really did feel like America's farmers and ranchers would be willing to pay their fair share for deficit reduction, but we were simply not going to pay a disproportionate amount when times are difficult in agriculture country, and when we have farmers who have depended on that 6-year farm bill and have made financial plans, whether it is the purchase or lease of land, purchase of farm equipment, or planning for the growing and harvesting of crops, as they have done, depending on that 6-year farm bill being in place.

Therefore, as chairman of the Senate Agriculture Committee, I made a commitment to our farmers and ranchers that we are going to do everything possible to make sure that the policy of that farm bill is not changed. We can do that.

The folks on the other side, frankly, have made my argument for me. That is this: They have said, correctly, that in 2002 when the farm bill was passed and signed into law, fiscal conservatives all across the country and the media really chastised those of us that crafted that farm bill for spending way too much of the American taxpayers' money on agriculture programs. We knew that if the farm bill worked right, we would never spend what was projected. In actuality, it was projected that we would spend $52 billion on commodity programs in 2002, 2003, and 2004, and because we have had good yields and good prices in those years, we have spent only $37 billion. That is just in one title of the farm bill. So we have achieved savings of $15 billion in 3 years.

We also have the food stamp title, where no projected savings have been talked about at this point. Maybe some can be achieved. When I came to Congress in 1995, USDA reported that the Food Stamp Program error rate was 10 percent.

Last week, USDA testified before the House Appropriations Subcommittee on Agriculture and said that the error rate has now been reduced to 6 percent. That is because of the hard work of everybody in this body on both sides of the aisle and everybody in the House on both sides of the aisle. We have squeezed that program down to where the error rate is still at 6 percent. That is too much. But still it is coming way down.

We can probably achieve some additional savings there. Also, we have the conservation title, which has not been discussed. We are going to spend about $33 billion this year on the Food Stamp Program, about 2.5 on conservation, and projected about 18 on commodities.

Now, if we have saved $15 billion on the commodity title alone in 3 years, am I hearing this right, that folks on the other side are saying we cannot achieve $2.8 billion over the next 5 years, not just from commodities but from all three titles in the farm bill? I think that is kind of a ludicrous argument for us to say that when we are in tough times—times have changed since we passed this farm bill in 2002, where we were in surplus times. Times have changed because we are now in a deficit situation and we must be fiscally responsible in this body, just as our colleagues on the House side must be fiscally responsible.

I cannot imagine anybody saying that we cannot be treated fairly when we are going to be cutting and asked to be finding savings in Medicaid, in transportation, in education, and in other mandatory programs, that farmers and ranchers and their respective States are not going to be willing to participate when we have already saved an average of $5 billion per year, that we are now being asked to save $2.8 billion over 5 years, that our farmers and ranchers would not be willing to participate in their fair share, so long as, and I emphasize this, we do not change the policy in the farm bill.

We have entered into a colloquy with the distinguished chairman of the Budget Committee that as he goes into conference he is going to do everything within his power to make sure we hold this $2.8 billion figure because we already know the House has come in with a number in excess of that. I would again say if the requested deficit savings on agriculture are disproportionate in any way, we need to look at it and we need to rethink where we are today. But when we look at the $2.8 billion and the fact that we have saved an average of $5 billion a year, I know and understand we have not been asked to share in an amount that requires that the deficit reduction requested by the President be taken out on the backs of

farmers and ranchers. I would rather not have any, but being fiscally responsible is as important as writing a good farm bill.

I close by saying that as I have gone around the country—and I have over the last 2 weeks. I have been in the far West, I have been in the Midwest, and I have been in the Southeast, talking to farmers and ranchers, and I am very pleased with the reaction that farmers and ranchers have given to me personally when we have explained to them how we are going to approach these deficit savings. What I have told them is we are going to be fair and equitable in each and every title, and that we are going to ask all of agriculture to share somewhat in the pain, but it is not going to be disproportionate, and we are going to keep the policy of the farm bill in place and we are going to find reductions in savings that will allow the greatest patriots in America—and that is farmers—to participate once again in deficit reduction, and when we do this we want to assure, in all probability, that farmers and ranchers will have this $2.8 billion returned to them in interest savings alone, because we all know if we continue down this trail of deficit spending, interest rates are going to rise. If we act responsibly in this body and also on the House side relative to this issue of deficit spending, we can either hold interest rates in line or maybe see them reduced again, which will be of tremendous benefit to our farmers and ranchers.

I am proud to represent agriculture country. I come from the heart and soul of agriculture country in my State, and farmers and ranchers all across America are the salt-of-the-Earth people who make this country the great country it is. They have always been willing to do their fair share, and that is simply what we are asking for, nothing more.

I yield back.

Mr. HARKIN. Mr. President, I support this amendment because it would prevent the damage this budget resolution seeks to inflict on Americans throughout our country in all walks of life who benefit from the whole range of programs within the jurisdiction of the Committee on Agriculture, Nutrition and Forestry, where I am proud to serve as ranking Democratic member.

It is said that the cuts to these programs required by this resolution are no cause for worry, no sweat. With respect, I must say the facts are otherwise. The 2002 farm bill has already suffered serious cuts in three annual appropriations cycles. This budget resolution contains further and even deeper cuts—both in appropriations and through budget reconciliation instructions to our committee and the House Agriculture Committee. To be sure, the $2.8 billion reconciliation instruction in this resolution is less than in the President's budget, and it is less than the $5.3 billion reconciliation instruction in the House's version of the budget resolution. However, I would note that the Senate resolution does assume additional budget reductions of $2.7 billion, so the total assumed budget savings from the Committee on Agriculture, Nutrition and Forestry is $5.5 billion in this resolution.

The budget reconciliation figures in these resolutions are a direct assault on the progress we made in writing a balanced farm bill in 2002 that covered a whole range of needs from helping protect farm income, to providing food to poor families and children, to improving conservation and environmental practices, to promoting farm-based renewable energy, to increasing food and agriculture research, to assisting rural economic development and others. We need to protect that balance.

Where is the budgetary justification for making these cuts and upsetting the balance we struck and the progress we made in the farm bill? There is no justification. We have been fiscally responsible in the programs falling in our committee's jurisdiction. We were provided a budget allocation to write the 2002 farm bill and we stayed within it. We repaired Freedom to Farm and reinstated a countercyclical commodity program. Thanks to that countercyclical feature, the commodity programs have cost some $15 billion less than they were expected to cost over the first three years of the 2002 farm bill. We also carefully and responsibly invested some of our farm bill budget allocation to strengthen programs and adopt innovative new initiatives in conservation, agricultural trade, rural development, nutrition, agricultural research and renewable energy.

The direct harm from these budget cuts would be serious enough, but in addition they can only upset carefully struck balances in the 2002 farm bill and reopen old arguments and old fault lines. We had broadly based bipartisan support for the 2002 farm bill, but this budget resolution threatens to tear that all apart. This resolution would pit one group and its interests against others—one title of the farm bill against others. As a result, we would be looking to the next farm bill with a reduced budget baseline and a fractured farm bill coalition, which would surely make it all the harder and more contentious to write the next farm bill.

Less than 3 years ago we passed a farm bill to repair our Nation's farm income protection system. It would be irresponsible to weaken that system now and create new uncertainty—especially when we need bargaining leverage in the midst of global agricultural trade negotiations in the WTO. Farm commodity programs are less than a half of a percent of the Federal budget. It is terribly misguided to propose that cutting farm income protection can significantly help solve Federal budget deficits.

Nor is there money to be spared in the farm bill's conservation, rural economic development, research or renewable energy initiatives—some of the most innovative and forward-looking parts of the 2002 farm bill which have already suffered the most and seem to be at the greatest risk of further cuts. These initiatives constitute investments in the future of our Nation's food and agriculture system, our rural communities and our environment and natural resources. Believe me, we are not investing too much in these initiatives. We are investing far too little.

This resolution is especially threatening to Federal food assistance and nutrition programs if history is our guide. The last time there was budget reconciliation, recipients of Federal food assistance took the heaviest hit of anyone. Think about the fairness of that. Those cuts did not come from waste, fraud, and abuse, but instead were taken from across-the-board benefit reductions that affected nearly all recipient households, including families with children, the working poor, the elderly, and people with disabilities.

This year we are hearing the same claims about waste, fraud, and abuse in Federal nutrition programs. In reality, we have worked hard to improve the program integrity of nutrition programs, and we have done it on a bipartisan basis. The error rate in the Food Stamp Program is now at an all-time low. There is not a realistic way to wring significant budget savings out of waste, fraud and abuse in nutrition programs. It is not there. Instead, this resolution would take away food from American families, most of them with children and most of them working or trying to find work. We should not add new hardship to the lives of working American families by cutting food assistance programs.

For all of these reasons, I support and am proud to cosponsor the amendment of Senator BAUCUS and urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Could I take a minute off of managers' time?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let us be very clear what this amendment is about. Agriculture represents less than 1 percent of Federal spending. It is being asked to take 9 percent of the mandatory cuts. If the Medicaid amendment is adopted, agriculture will be asked to take 16.5 percent of the cuts, and we are less than 1 percent of the budget. That is not fair. That sets a precedent.

Mr. CHAMBLISS. Will the Senator yield?

Mr. CONRAD. I will not yield.

That sets a precedent that is a profound mistake for agriculture and we will rue the day when we are in the midst of negotiations that we cut the heart out of our negotiators' ability to level the playing field for our producers. That is a mistake.

I reserve the remainder of my time.

AMENDMENT NO. 239

The PRESIDING OFFICER. There will now be 15 minutes of debate equally divided on the Biden amendment on COPS. Who yields time?

The Senator from Delaware.

Mr. BIDEN. Mr. President, I send the amendment to the desk, which I do not have in my hand, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. DORGAN, Mr. LEAHY, Mr. KENNEDY, Mr. SCHUMER, Mr. KOHL, and Mr. SALAZAR, proposes an amendment numbered 239.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance the ability of state and local law enforcement to prevent crime and terrorism by adding $1 billion to restore funding to the Office of Community Oriented Policing Services. This amendment is fully off-set by closing corporate loopholes and will generate $2 billion in revenue with $1 billion allocated to the COPS program and the remaining billion to reduce the deficit)

On page 3, line 10, increase the amount by $240,000,000.

On page 3, line 11, increase the amount by $560,000,000.

On page 3, line 12, increase the amount by $500,000,000.

On page 3, line 13, increase the amount by $400,000,000.

On page 3, line 14, increase the amount by $300,000,000.

On page 3, line 19, increase the amount by $240,000,000.

On page 3, line 20, increase the amount by $560,000,000.

On page 3, line 21, increase the amount by $500,000,000.

On page 4, line 1, increase the amount by $400,000,000.

On page 4, line 2, increase the amount by $300,000,000.

On page 4, line 7, increase the amount by $1,000,000,000.

On page 4, line 16, increase the amount by $120,000,000.

On page 4, line 17, increase the amount by $280,000,000.

On page 4, line 18, increase the amount by $250,000,000.

On page 4, line 19, increase the amount by $200,000,000.

On page 4, line 20, increase the amount by $150,000,000.

On page 4, line 24, increase the amount by $120,000,000.

On page 4, line 25, increase the amount by $280,000,000.

On page 5, line 1, increase the amount by $250,000,000.

On page 5, line 2, increase the amount by $200,000,000.

On page 5, line 3, increase the amount by $150,000,000.

On page 5, line 7, decrease the amount by $120,000,000.

On page 5, line 8, decrease the amount by $400,000,000.

On page 5, line 9, decrease the amount by $650,000,000.

On page 5, line 10, decrease the amount by $850,000,000.

On page 5, line 11, decrease the amount by $1,000,000,000.

On page 5, line 15, decrease the amount by $120,000,000.

On page 5, line 16, decrease the amount by $400,000,000.

On page 5, line 17, decrease the amount by $650,000,000.

On page 5, line 18, decrease the amount by $850,000,000.

On page 5, line 19, decrease the amount by $1,000,000,000.

On page 23, line 16, increase the amount by $1,000,000,000.

On page 23, line 17, increase the amount by $120,000,000.

On page 23, line 21, increase the amount by $280,000,000.

On page 23, line 25, increase the amount by $250,000,000.

On page 24, line 4, increase the amount by $200,000,000.

On page 24, line 8, increase the amount by $150,000,000.

On page 30, line 16, decrease the amount by $240,000,000.

On page 30, line 17, decrease the amount by $2,000,000,000.

On page 48, line 6, increase the amount by $1,000,000,000.

On page 48, line 7, increase the amount by $120,000,000.

On page 65, after line 25 insert the following:

FUNDING FOR DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) State and local law enforcement officers provide essential services that preserve and protect our freedom and safety;

(2) with the support of the Community Oriented Policing Services program (referred to in this section as the ''COPS program''), State and local law enforcement officers have succeeded in dramatically reducing violent crime;

(3) on July 15, 2002, the Attorney General stated, ''Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates. COPS provides resources that reflect our national priority of terrorism prevention.'';

(4) on February 26, 2002, the Attorney General stated, ''The COPS program has been a miraculous sort of success. It's one of those things that Congress hopes will happen when it sets up a program.'';

(5) the Federal Bureau of Investigation's Assistant Director for the Office of Law Enforcement Coordination has stated, ''The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners.'';

(6) a 2003 study of the 44 largest metropolitan police departments found that 27 of them have reduced force levels;

(7) shortages of officers and increased homeland security duties has forced many local police agencies to rely on overtime and abandon effective, preventative policing practices. And, as a result police chiefs from around the nation are reporting increased gang activity and other troubling crime indicators;

(8) several studies have concluded that the implementation of community policing as a law enforcement strategy is an important factor in the reduction of crime in our communities;

(9) In addition, experts at the Brookings Institute have concluded that community policing programs are critical to our success in the war against terrorism.

(10) the continuation and full funding of the COPS program through fiscal year 2010 is supported by several major law enforcement organizations, including—

(A) the International Association of Chiefs of Police;

(B) the International Brotherhood of Police Officers;

(C) the Fraternal Order of Police;

(D) the National Sheriffs' Association;

(E) the National Troopers Coalition;

(F) the Federal Law Enforcement Officers Association;

(G) the National Association of Police Organizations;

(H) the National Organization of Black Law Enforcement Executives;

(I) the Police Executive Research Forum; and

(J) the Major Cities Chiefs;

(11) Congress appropriated $928,912,000 for the COPS program for fiscal year 2003, $756,283,000 for fiscal year 2004, and $499,364,000 for fiscal year 2005, and

(12) the President requested $117,781,000 for the COPS program for fiscal year 2006, $381,583,000 less than the amount appropriated for fiscal year 2004.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that an increase of $1,000,000,000 for fiscal year 2006 for the Department of Justice's community oriented policing program will be provided without reduction and consistent with previous appropriated and authorized levels.

Mr. BIDEN. Mr. President, I only have a few minutes. I consider this, as my colleagues might guess—in all my years working on this, I sound a little like a broken record, but this amendment restores money for local law enforcement.

I want to make a stark point. In the past, we had an opportunity to deal with actually affecting violent crime. The way we did that was we passed a COPS bill that did a simple thing. It put more cops on the street in the Nation's cities and rural communities. It had a funny effect, a profound effect. Violent crime dropped on average 8 percent per year since the bill passed in 1994.

We began to struggle with this concept and this notion even after the former Attorney General said the crime bill has worked miraculously, and then announced the administration was eliminating the funding for the COPS Program.

In that process, we went from spending over $400 million on hiring additional cops at the local level—not we, but local law enforcement, local mayors, local town councils, local State police hired more cops, and in the year 2001 we spent over $400 million on hiring new cops. That number is now down to zero in this budget.

All of my colleagues know, notwithstanding the fact they may subscribe to this notion of devolution of Government, meaning the Federal Government should not do anything the States can do, they have not only decimated the program that allows for hiring of law enforcement agencies locally but they have eliminated the big three, the COPS Program, the local law enforcement block grants, and the Byrne grants.

Total support for local law enforcement from the Federal Government has

gone down from $2.2 billion we were sending to local law enforcement in the year 2002 to $118 million this year. Will someone on this floor tell me how that possibly makes sense?

Local law enforcement is facing what I would call the perfect storm. First, the FBI has been taken out of local law enforcement. The FBI accounted for somewhere between 2 and 10 percent of all the enforcement done at the local level, depending on the jurisdiction, for bank robberies, interstate auto theft, and a whole range of other issues. But necessarily, the FBI has been taken out of that and put in counterterrorism. Violent crime task forces are gone. The Federal arm has been withdrawn.

Secondly, of the 46 or so major police agencies in the United States of America, 27 of them have had to cut the number of cops they have. In New York, it is 3,400 cops down; Cleveland, 250; Minneapolis, 140; New Orleans, 100. There are some 3,373 pending applications for additional cops from 3,373 jurisdictions in America, totaling well over a request for more than 10,000 additional law enforcement officers.

What is the last part of this perfect storm? The last part in the perfect storm is that State and local budgets are crunched. Now, I realize I only have 7 minutes so I will conclude with this simple point: I hear my friends say that Homeland Security is going to fill in the blanks. There is not one penny in Homeland Security allowing for the hiring of an additional local law enforcement officer, No. 1. No. 2, if anybody is going to find a terrorist about to put sarin gas into the heating system or cooling system of the largest mall in Little Rock, AR, or in Savannah, GA, it is not going to be some guy wearing fatigues and night-vision goggles who is a special forces officer in the U.S. military. It is going to be a local cop on his way from a Dunkin' Donut shop on his rounds behind that shopping center.

So we are making a tragic mistake. I do not understand the President's rationale. My legislation calls for funding the COPS Program at over $1 billion to eliminate the current backlog in applications and to meet State and local needs. We do it by cutting corporate loopholes and we provide an additional $1 billion in deficit reduction as well.

The COPS office has met its goal of funding over 100,000 cops, but it is like cutting grass. Everybody says what a great job it did. Well, when one cuts their grass this summer, the first week it looks great. Two weeks later, when one does not cut it, it looks a little ragged. Six weeks later, it is a wheatfield. That is how crime is.

The idea with an expanding population that we can use fewer resources to fight crime is absolutely mindless, and that is exactly what we continue to do.

These law enforcement officers taking this money over the years are a victim of their own success. They made it work.

I will close with a quote from the president of the International Association of Chiefs of Police, IACP:

> But when I first read President Bush's budget for 2006, I felt as if someone had punched me in the stomach.

I ask any one of my colleagues to go home and ask any one of their law enforcement agencies, State, municipal, town, county, whether they need this help. I will be dumbfounded if they find anybody who says they do not. The idea that this is not a Federal responsibility is beyond me.

Where do my colleagues think the dope is coming from that is coming into their cities and towns? It is because of a failed Federal policy on interdiction at our borders. It is because of a failed Federal policy relating to all the poppy being grown in Afghanistan, a failed Federal policy of all the cocaine coming out of the Andes.

This is a Federal responsibility. To quote President Reagan—I do not know who he was quoting, but he is most associated with the comment—if it ain't broke, do not fix it.

This ain't broke. It is working. Do not try to fix it by eliminating funding for local law enforcement from in 2002 over $2 billion to in this budget less than $118 million.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I yield the floor.

Mr. GREGG. To quote President Reagan: The only thing in this city that has eternal life is a Federal program.

COPS is the No. 1 poster child for that statement. Why is the COPS Program being wound down? Because when it was started, it was supposed to end after 3 years.

Mr. BIDEN. Not true.

Mr. GREGG. That was the agreement. When President Clinton offered this proposal, which I supported, which I funded—I happened to chair the subcommittee that funded this proposal—the understanding was it would be a 3-year program. The cities and towns would come in, they would get their police officers approved, and then after 3 years those police officers would be off the Federal payroll, on the local payroll, and when we got to 100,000 police officers, the program would end. In the year 2000, we got to 100,000 police officers; in the year 2001, we got to 110,000 police officers—and the program goes on and on.

There was an agreement 2 years ago that we would only fund those officers who were sort of the end of the line—in rural communities, essentially—and then we would terminate the program the way it was supposed to be originally terminated. That has not happened, either.

Finally, the President, living up to the commitment of President Clinton, has said: Enough is enough. The program did what it was supposed to do, it put over 100,000 police officers on the street. As a result of doing that, it has succeeded. Let's declare victory relative to this program because it accomplished what it was supposed to accomplish—it added 110,000 or 120,000 officers, I guess, in the end—and let's take these funds which were being used here and move them to another account, specifically accounts which are going to be more focused on a targeted response—primarily to the threat of terrorism—versus a general response.

The police officers, obviously, have a terrorism role, but they have a lot broader portfolio when they walk on that street, from moving-vehicle crimes to, obviously, violent crimes to drug crimes. But the dollars that were being spent on the COPS Program have been moved over, essentially to homeland defense and other accounts, the purpose of which is to get the Federal role together in an area where we have a priority, which is fighting terrorism.

The officers who were put on the street by this program are theoretically still on the street because the communities that use this program to basically gear these officers up—I think we paid 75 percent the first year, 55 percent the second year, 25 percent the third year, and then it goes on the community's payroll, that officer's salary—those officers are still out there, one presumes.

It is just extremely ironic that there would be such an outcry to keep a program that the prior administration fully expected and put forward as a program that was going to be focused on getting 100,000 police officers on the street, and when it accomplished that it would terminate. It accomplished that and more, and it should be terminated.

So I hope maybe we could prove President Reagan wrong once. He has been right on just about everything he ever did as a President, but maybe we could just prove him wrong once—I'm sure it would make the other side happy—by showing all programs are not eternal in this city and we can terminate one—the COPS Program.

I yield the remainder of my time on this amendment, then, and we will move on to the next amendment, which I guess is Senator FEINSTEIN's.

AMENDMENT NO. 188

The PRESIDING OFFICER. There will now be 15 minutes of debate equally divided on the Feinstein amendment on SCAAP.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 188 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KYL, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. AKAKA, Mr. CORNYN, Mr. SCHUMER, Mr. FEINGOLD, and Mrs. CLINTON, proposes an amendment numbered 188.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that Congress should enact a long term reauthorization of the State Criminal Alien Assistance Program and appropriate $750,000,000 for the program in fiscal year 2006)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) Control of illegal immigration is a Federal responsibility.

(2) The State Criminal Alien Assistance Program (referred to in this section as ''SCAAP'') provides critical funding to States and localities for reimbursement of costs incurred as a result of housing undocumented criminal aliens.

(3) Congress appropriated $250,000,000 for SCAAP to reimburse State and local governments for these costs in fiscal year 2003.

(4) Congress appropriated $300,000,000 for SCAAP to reimburse State and local governments for these costs in fiscal year 2004.

(5) Congress appropriated $305,000,000 for SCAAP to reimburse State and local governments for these costs in fiscal year 2005.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume that—

(1) Congress will appropriate $750,000,000 for SCAAP for fiscal year 2006; and

(2) Congress will enact long-term reauthorization of SCAAP to reimburse State and local governments for the financial burdens undocumented criminal aliens place on their local criminal justice systems.

Mrs. FEINSTEIN. Mr. President, this is a sense-of-the-Senate amendment sent to the floor by Senator KYL, Senator HUTCHISON, Senator BINGAMAN, Senator AKAKA, Senator CORNYN, Senator SCHUMER, Senator FEINGOLD, and Senator CLINTON. It is a sense-of-the-Senate amendment to urge this Congress to reauthorize the SCAAP Program, the State Criminal Alien Assistance Program.

On every desk there is a chart that shows how much each State received for this program. What does this program do? What this program does is reimburse the State for the cost of the incarceration of an illegal alien. In other words, when someone comes to our country, commits a crime, is convicted of that crime, is in jail or is in State prison, the Federal Government—it is their responsibility for all matters pertaining to immigration—has reimbursed the State. The program reimburses the State for less than 20 percent of the actual cost to the State. The authorization is due to expire. We are asking in the sense of the Senate that it be considered for reauthorization.

Before I speak further, my main author, Senator KYL, wanted to make a few comments and then Senator CORNYN, if I might.

I yield briefly to Senator KYL.

Mr. KYL. Mr. President, I thank the Senator from California for helping, again, to lead this effort to get adequate reimbursement to the States for the incarceration of illegal immigrants. In the past, the amount of reimbursement had been roughly one-third of their costs. That is not enough, but at least it helped to defray the expenses of the States in housing these people who were convicted of crimes and who were ultimately the responsibility of the Federal Government.

In the last couple of years, the amount of money has gone down to the point that, as the Senator said, last year it was about 17 cents on the dollar. That is absolutely unacceptable. If the Federal Government cannot do what is necessary to control the border and prevent illegal immigration, at least it can help the States defray some part of their cost in incarcerating the people who come here and commit crimes. Surely we can authorize a program that could reimburse the States again at the level of approximately one-third of their costs. That will be our goal.

That is why I am very proud to, again, work with Senator FEINSTEIN to try to get adequate reimbursement to the States for this program. I fully support her effort. I compliment her for her leadership, and I hope my colleagues will join in accepting this sense-of-the-Senate resolution.

Mrs. FEINSTEIN. Mr. President, I yield my portion of the time to the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CORNYN. Mr. President, I also want to express my gratitude to the Senator from California for taking the leadership on this issue again this year.

This is a common theme among those of us who represent border States, to ask the Federal Government to live up to its responsibilities. It is clear that the cost of housing aliens who are committing crimes in our country is a Federal responsibility. Yet for year upon year upon year they have thrust that burden on the States, and indeed on the counties at the local level.

In my State, about 8,700 criminal aliens have been detained at a cost of roughly three times what this provision would reimburse my State. This is about one-third of the money that is a Federal responsibility that would go back to my State and the States that bear that Federal expense.

I am all for the Federal Government living within its means, and I support this budget at the top-line number. I think part of budgeting is not only living within your means but it is making sure you fund your priorities. It is arguably a Federal priority to deal with the detention of illegal aliens who come into the country and commit crimes. It is a scandal that this sense of the Senate is even necessary again this year.

I want to express in closing again my gratitude to Senator FEINSTEIN for taking the leadership on this, and I certainly commend this to our colleagues.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I very much thank the Senators from Texas and Arizona for their support on this matter.

I know Senator KENNEDY has an urgent matter he would like to be able to present. I will not yield my time, but I would be hopeful that the President would give him time.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I thank the Senator from California and others.

CONDEMNING VIOLENCE BY THE IRISH REPUBLICAN ARMY IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 84, submitted earlier today by myself, Senator MCCAIN, Senator DODD, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 84) condemning violence and criminality by the Irish Republican Army in Northern Ireland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GREGG. Mr. President, I ask unanimous consent to be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 84) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 84

Whereas on January 30, 2005, a Catholic citizen of Belfast, Northern Ireland, Robert McCartney, was brutally murdered by members of the Irish Republican Army, who attempted to cover-up the crime and ordered all witnesses to be silent about the involvement of Irish Republican Army members;

Whereas the sisters of Robert McCartney, Catherine McCartney, Paula Arnold, Gemma McMacken, Claire McCartney, and Donna Mary McCartney, and his fiancée, Bridgeen Karen Hagans, refused to accept the code of silence and have bravely challenged the Irish Republican Army by demanding justice for the murder of Robert McCartney;

Whereas when outcry over the murder increased, the Irish Republican Army expelled 3 members, and 7 members of Sinn Fein, the political wing of the Irish Republican Army, were suspended from the party;

Whereas the leadership of Sinn Fein has called for justice, but has not called on those responsible for the murder or any of those

who witnessed the murder to cooperate directly with the Police Service of Northern Ireland;

Whereas on March 8, 2005, the Irish Republican Army issued an outrageous statement in which it said it ''was willing to shoot the killers of Robert McCartney''; and

Whereas peace and violence cannot coexist in Northern Ireland: Now, therefore, be it

Resolved, That—

(1) the Senate joins the people of the United States in deploring and condemning violence and criminality by the Irish Republican Army in Northern Ireland; and

(2) it is the sense of the Senate that—

(A) the sisters and fiancée of Robert McCartney deserve the full support of the United States in their pursuit of justice;

(B) the leadership of Sinn Fein should insist that those responsible for the murder and witnesses to the murder cooperate directly with the Police Service of Northern Ireland and be protected fully from any retaliation by the Irish Republican Army; and

(C) the Government of the United States should offer all appropriate assistance to law enforcement authorities in Northern Ireland to see that the murderers of Robert McCartney are brought to justice.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR THE FISCAL YEAR 2006—Continued

AMENDMENT NO. 188

Mr. GREGG. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There is 2 minutes 13 seconds on the side of the Senator from California, and 7½ minutes on the other side.

Mrs. FEINSTEIN. Mr. President, this is a bipartisan sense of the Senate. President Bush, when he was Governor, used this program. The Governor of my State, Governor Schwarzenegger, supports it. It is a huge item, as has been stated by Senators KYL and CORNYN, for border States.

This is a tremendous responsibility to the Federal Government. It is an unfunded mandate. It is a program that should not be allowed to lapse.

We have come to the floor with this sense of the Senate to ask the Senate to pass this resolution so that those of us on the authorizing committee and on Appropriations can move to get this job done.

As I mentioned, this is a 7-year reauthorization. The amounts requested for each year are spelled out in the resolution. This is a total Federal responsibility, and I am hopeful that the Senate will accept their responsibility.

I yield the floor at this time and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from California has 1 minute remaining; the Senator from New Hampshire has 7½ minutes remaining.

Mr. GREGG. Mr. President, this is a sense-of-the-Senate resolution. Therefore, it has no impact that involves actual events or activity. It expresses the sense of the Senate as to what we think we should do on something. We have had a few of those.

The attempt has been, of course, to reduce the number of sense-of-the-Senate amendments. This would be subject to a 60-vote point of order on a sense-of-the-Senate budget resolution. I will not make that point of order.

I will say this: We will probably take this sense of the Senate. This is about SCAAP. SCAAP has some serious problems. That is why it has always been looked at in a fairly suspect way, not only by the Bush administration but before that the Clinton administration had concerns about it. And the concerns are these: It essentially is a revenue-sharing event. Essentially these dollars go back to the States in very large amounts of money. They go to the border States, primarily California and Texas, New Mexico and Arizona, but primarily California and Texas are the two major beneficiaries of this program. But they go back without any strings attached.

The theory is that they are going to be spent to relieve some of the burden that is put on these States relative to incarcerating illegal aliens who are captured in those States and are detained within those States in State prison facilities. That is a legitimate purpose. We should be assisting those States in that area because we are putting pressure on those States in a unique way. Other States don't have the same pressure. But there is nothing to say the money has to be spent that way. It is literally a check which the Federal Government writes to the States of Texas, California, or Arizona. And if the Governors want to use it to build a road or use it to buy a new school or for some other activity, the Governors can do that.

I have always said let us put some language into this which makes it clear that this money is going to go to the States for the purpose of giving those States assistance with detaining illegal aliens but isn't going to end up being used, as I suspect, for primarily a basic State commitment to its own correctional system.

I think you can make a pretty good case that there is a history here of this money essentially being used to supplement efforts on the part of the States in their own correctional systems.

I hope when we reauthorize this language, which will come through the Senate's Judiciary Committee, that type of language which makes it clear this money has to be used for the purpose for which it is designated will be included. That is a debate between the authorizing committee and the appropriating committee. The Budget Committee doesn't have any direct impact on that. We don't do programmatic activity at the Budget Committee level.

I haven't read the sense of Senate yet, but I suspect we will simply accept it. After I read it, I may change my mind. That can be a mistake, as we know, around here. That is my concern and reservation about the program.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I respond to the distinguished Senator that essentially what he said is correct. I have no objection to an amendment in the program. My State is a big user of this program at $111 million last year. He is right, Texas, California, and the big immigrant States are the States that are most affected by this program.

Moneys go to every single State. I have no objection to mandating the money must go directly into the State prison system or the county jail system, whatever that might be.

I point out also to the Senator when I was mayor, we had a revenue-sharing program. We had a community block grant program, all of which looked as though they were going to go by the boards, certainly CDBG with this budget. This is a total Federal responsibility. For our Government not to take that responsibility and recompense those States that provide the incarceration—these people are not in Federal prison, they are in State prisons—is a huge mistake.

I have objection, certainly, to mandating where the funds would go. If the managing Senator wishes to move this by unanimous consent, I certainly have no objections to that, either.

AMENDMENT NO. 240

The PRESIDING OFFICER. There are now 15 minutes of debate equally divided on the Byrd amendment on highways.

Mr. BAUCUS. Mr. President, the Senator from West Virginia is not here at this moment, so I yield myself a couple of minutes for the proponents of the amendment.

I strongly support this amendment. There are many Senators who are very distressed with the very low level in the amount of transportation obligation funds passed out of the Environment and Public Works Committee the other day. There are donor States that are very upset with the donor levels not being high enough, and the so-called donee States are concerned that they are not properly taken care of. There are States that believe the minimum obligation should be higher.

In my experience, I have never experienced such consternation among so many Senators so concerned we are not paying enough for our infrastructure and our highways as is the case now, compared with the previous highway bill we passed a few years ago; that is, with TEA–21, which was passed about 6 years ago.

In the meantime, the Finance Committee is working on a provision to administer money to the highway bill. Chairman GRASSLEY and I are working diligently to find a way to administer money to the highway bill. We hope to bring that amendment to the floor. We will not raise gasoline prices. We will not raise gasoline prices. There will be

offsets, so it will be budget neutral. The offsets will be in the nature of fuel fraud, to prevent fuel fraud, and close corporate or tax loopholes which we all agree should be closed.

I strongly urge Members to recognize we do need more money. We all know that. We are finding ways in the Finance Committee to find more money. I do not know the exact amount, but it will not be a significant amount. It will help solve the problems that Senators have in meeting their legitimate concerns as we try to meet the formula and have enough money in the highway program to build our roads and streets. This amendment will not be a huge amount, but it will be helpful.

I urge Members to support the amendment that is offered by the senior Senator from West Virginia. Senator BYRD is in the Senate, and I highly compliment the Senator for his work. He has been a champion over the years. I am so impressed with the efforts he undertook about 6 years ago when they got TEA–21 up and passed. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Montana for his overly charitable and very gracious comments concerning my efforts. I thank him for his work, likewise.

Mr. President, I rise to offer an amendment to allow the Senate to once again pass a $318 billion highway bill. That is precisely the bill that the Senate approved last year by a vote of 76 to 21.

Now, my good friend, the chairman of the Budget Committee, Senator GREGG, was among the 21 Senators who voted against last year's highway bill. I don't have any expectations he will support the amendment. My plea is to the 73 Senators still serving in the Senate who voted for that highway bill last year, Republicans and Democrats alike. We must reverse the continuing deterioration of the highways and transit systems in our State. We know the right vote was cast in February of last year when we approved a $318 billion highway bill despite the veto threats of the President.

We know that the highway and transit needs in the States have not diminished one thin dime since that vote last year. Today I am asking my colleagues to vote again for a budget that will allow for a $318 billion highway bill.

Just yesterday, the Environment and Public Works Committee marked up a new highway will. The bill marked up yesterday in committee provides far less funding than the bill passed last year, so that the bill's total would stay within the level of funding that President Bush has said he would accept, namely, $284 billion. That lower level of funding, $284 billion, is the level incorporated in the budget resolution before the Senate. The product of yesterday's committee markup is harsh medicine—harsh medicine, indeed—to all 50 States in our Nation. The bill approved in committee yesterday distributes almost $25 billion less to our States in formula funds than the bill approved by more than three-quarters of the Senate last year.

We now see precisely the amount of money that States will lose as a result of this retreat because it represents the elimination of almost 1.2 million jobs that would have been created without that lost funding. A major benefit of the committee having marked up its bill yesterday is that every Senator can see what their State will lose as a result of this retreat.

Currently sitting on every Senator's desk is a table comparing the amount of funding that was distributed by a formula to every State between 2005 and 2009 under the bill approved by the Senate last year and the smaller bill approved by the Environment and Public Works Committee yesterday. I have taken the liberty of including in this table the size of the job loss that results from these funding reductions. I ask unanimous consent this table be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BYRD-BAUCUS HIGHWAY AMENDMENT

[Allows for $318 billion highway bill as passed by the Senate in 2004 (S. 1072) instead of $284 billion bill as reported by the EPW Committee yesterday. Comparison of formula highway funds (2005–2009) [1]]

State	S. 1072 ($318 billion bill)	Committee mark ($284 billion bill)	Dollars lost	Job impact
Alabama	$3,967,449,985	$3,472,225,781	−$495,224,205	−23,523
Alaska	2,326,918,084	2,036,548,572	−290,369,512	−13,793
Arizona	3,556,974,477	3,121,926,693	−435,047,784	−20,665
Arkansas	2,597,760,761	2,273,503,615	−324,257,145	−15,402
California	18,750,888,489	16,344,615,836	−2,406,272,652	−114,298
Colorado	2,793,809,201	2,326,138,934	−467,670,267	−22,214
Connecticut	2,293,088,141	2,290,133,475	−2,954,666	−140
Delaware	862,695,605	755,012,396	−107,683,209	−5,115
District of Columbia	864,263,485	822,116,229	−42,147,257	−2,002
Florida	9,548,774,411	8,246,098,078	−1,302,676,334	−61,877
Georgia	7,115,765,835	6,082,989,118	−1,032,776,717	−49,057
Hawaii	826,702,443	781,329,399	−45,373,044	−2,155
Idaho	1,513,187,851	1,324,372,488	−188,815,363	−8,969
Illinois	6,884,778,734	5,862,481,848	−1,022,296,886	−48,559
Indiana	4,740,670,388	4,593,762,346	−146,908,042	−6,978
Iowa	2,372,759,973	2,086,840,102	−285,919,871	−13,581
Kansas	2,232,304,505	2,027,523,441	−204,781,063	−9,727
Kentucky	3,449,665,049	3,019,071,686	−430,593,363	−20,453
Louisiana	3,194,285,787	2,767,992,424	−426,293,364	−20,249
Maine	973,735,177	864,100,335	−109,634,842	−5,208
Maryland	3,221,907,656	2,781,180,790	−440,726,866	−20,935
Massachusetts	3,463,753,865	2,996,476,126	−467,277,739	−22,196
Michigan	6,557,195,753	5,567,499,010	−989,696,743	−47,011
Minnesota	3,340,524,677	2,859,562,905	−480,961,772	−22,846
Mississippi	2,452,424,244	2,143,929,053	−308,495,191	−14,654
Missouri	4,597,342,251	4,114,985,174	−482,357,077	−22,912
Montana	1,952,017,932	1,708,506,206	−243,511,726	−11,567
Nebraska	1,578,571,858	1,397,005,328	−181,566,530	−8,624
Nevada	1,428,924,158	1,236,850,936	−192,073,221	−9,123
New Hampshire	864,818,872	787,790,327	−77,028,545	−3,659
New Jersey	5,284,405,725	4,500,421,114	−783,984,611	−37,239
New Mexico	1,930,483,549	1,689,597,705	−240,885,844	−11,442
New York	8,607,728,987	8,073,731,680	−533,997,306	−25,365
North Carolina	5,615,881,566	4,867,103,624	−748,777,942	−35,567
North Dakota	1,305,293,542	1,142,642,190	−162,651,352	−7,726
Ohio	7,226,566,093	6,212,521,762	−1,014,044,330	−48,167
Oklahoma	3,133,178,446	2,655,098,512	−478,079,934	−22,709
Oregon	2,293,629,067	2,069,306,196	−224,322,871	−10,655
Pennsylvania	8,425,351,109	7,624,587,002	−800,764,106	−38,036
Rhode Island	1,112,169,279	1,007,600,842	−104,568,437	−4,967
South Carolina	3,290,202,776	2,796,636,275	−493,566,501	−23,444
South Dakota	1,421,096,306	1,243,712,523	−177,383,783	−8,426
Tennessee	4,408,379,071	3,826,099,458	−582,279,614	−27,658
Texas	16,368,596,229	13,936,619,918	−2,431,976,311	−115,519
Utah	1,540,948,466	1,346,529,810	−194,418,656	−9,235
Vermont	954,366,407	860,265,456	−94,100,951	−4,470
Virginia	5,222,632,481	4,460,488,633	−762,143,848	−36,202
Washington	3,741,040,933	3,267,728,615	−473,312,317	−22,482
West Virginia	2,202,672,830	1,927,731,267	−274,941,563	−13,060

BYRD-BAUCUS HIGHWAY AMENDMENT—Continued

[Allows for $318 billion highway bill as passed by the Senate in 2004 (S. 1072) instead of $284 billion bill as reported by the EPW Committee yesterday. Comparison of formula highway funds (2005–2009) [1]]

State	S. 1072 ($318 billion bill)	Committee mark ($284 billion bill)	Dollars lost	Job impact
Wisconsin	3,546,203,750	3,066,054,558	−480,149,192	−22,807
Wyoming	1,367,566,340	1,191,647,378	−175,918,961	−8,356
Total	199,322,352,596	174,458,693,169	−24,863,659,427	−1,181,024

[1] Extrapolated from FHWA data.

Mr. BYRD. I ask every Senator to take a close look at this table before voting on this amendment. Senators should be aware of precisely the amount of investment and the number of jobs their State will be losing if they vote against this amendment. In my state of West Virginia, failure to adopt this amendment will mean a loss of almost $275 million and this amendment will mean a loss of almost $275 million and more than 13,000 desperately needed jobs.

For several larger States—such as Florida, Georgia, and Ohio—the loss over a 5-year-period to each State is more than $1 billion and more than 50,000 jobs.

Mr. President, before any Senator argues that my amendment just increases spending without ensuring it will be spent on highways and mass transit, let me point out that my amendment restores the special highway and transit budget categories. Every additional penny provided by this amendment will be required to be spent on our highways or mass transit programs.

The offset for my amendment is the very same type of financing mechanism that served to enhance the receipts to the highway trust fund and were included in last year's highway bill with the bipartisan support of the Senate Finance Committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, may I ask for 1 additional minute?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I know that some Members are saying that it is foolhardy to try to pass a highway bill at $318 billion because the President has already vowed to veto a measure of that size. But I wish to remind my colleagues that our job—our job here—is to legislate based on our recognition of what is needed by our States and by the Nation. It is the President's job to either sign that bill or veto it.

So I ask my colleagues, why do our constituents send us here if we do not look out for their needs? We have been sent here to vote our conscience and to stand for the needs of our constituents. So in offering this amendment today, I am saying to my colleagues, let's do our job. Let's adopt a budget that will enable us to pass a highway bill that we believe addresses the transportation and commerce needs of the Nation. The President will review that piece of legislation, and he will either sign or veto it. That is his job. That is his prerogative. But now is not the time to back away from the country's transportation needs.

When the roll is called on this amendment, Senators will be faced with a stark choice. They can either vote for the level of highway spending that they received in last year's highway bill or they can resign their constituents to ever worsening congestion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. I thank the Chair and implore my colleagues to vote for the amendment.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. BAUCUS, proposes an amendment numbered 240.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 10 increase the amount by $1,458,000,000.

On page 3, line 11 increase the amount by $3,536,000,000.

On page 3, line 12 increase the amount by $3,605,000,000.

On page 3, line 13 increase the amount by $2,922,000,000.

On page 3, line 14 increase the amount by $2,316,000,000.

On page 4, line 7 increase the amount by $8,920,000,000.

On page 4, line 8 increase the amount by $8,332,000,000.

On page 4, line 9 increase the amount by $8,332,000,000.

On page 4, line 10 increase the amount by $9,568,000,000.

On page 4, line 16 increase the amount by $1,458,000,000.

On page 4, line 17 increase the amount by $3,536,000,000.

On page 4, line 18 increase the amount by $3,605,000,000.

On page 4, line 19 increase the amount by $2,922,000,000.

On page 4, line 20 increase the amount by $2,316,000,000.

On page 15, line 15 increase the amount by $8,920,000,000.

On page 15, line 16 increase the amount by $1,458,000,000.

On page 15, line 19 increase the amount by $8,332,000,000.

On page 15, line 20 increase the amount by $3,536,000,000.

On page 15, line 23 increase the amount by $8,332,000,000.

On page 15, line 24 increase the amount by $3,605,000,000.

On page 16, line 2 increase the amount by $9,568,000,000.

On page 16, line 3 increase the amount by $2,922,000,000.

On page 16, line 7 increase the amount by $2,316,000,000.

On page 48, line 6 increase the amount by $579,000,000.

On page 48, line 7 decrease the amount by $40,372,000,000.

On page 48, line 8, after ''outlays for the discretionary category'' add the following ''and $34,740,000,000 for the highway category and $7,099,000,000 for the transit category''.

Mr. KENNEDY. Mr. President, I urge all our colleagues to support Senator BYRD's amendment, because our Nation's interstates, roads, and subways are at the breaking point, and our future economic health is at stake.

This shouldn't be a hard vote, because we did it before. Just last year, the Senate voted 76–21 to support the funding levels called for by the Byrd amendment.

Senators BOND, BAUCUS, INHOFE, JEFFORDS, SHELBY, and SARBANES have worked hard to construct a transportation bill under the constraints they have been placed, but the fact is they don't have enough money.

The White House has issued an edict: $284 billion or nothing. Let's do what we know is right for our States, for our economy, for our Nation's future.

The U.S. DOT says that each $1 billion of transportation investment supports and sustains 47,000 jobs.

Let's pass the Byrd amendment, and reaffirm our commitment to a strong U.S. economy and good-paying American jobs.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Can I ask the Chair what the status of the time is, Mr. President?

The PRESIDING OFFICER. The Senator has 7 minutes 30 seconds at his disposal.

Mr. GREGG. Mr. President, this proposal increases spending over the bill by approximately $30 billion. That is a fairly significant amount of money. It also raises taxes by $14 billion, which is also a significant amount of money. We are now at a point where amendments offered from the other side of the aisle increase spending by approximately $100 billion and increase taxes by approximately $60 billion. At some point you must ask the question, What is the purpose of a budget if the only purpose is to simply increase taxes and increase spending?

From my viewpoint, the purpose of the budget is to actually try to put in fiscal discipline and have some controls over spending and, as a result, have some controls over the amount of money we are taking out of people's pockets. Remember, it is their money, not our money, and spending it for them rather than allowing them to spend it themselves.

So I obviously oppose this amendment. As the Senator from West Virginia noted, I voted against the $318

billion when it came through the first time. And I do note that, yes, there were a number of people who voted for that at the time. But I do note the President, working with the Members of the Congress, has reached an agreement as to what we can afford in the area of highway funds, and that agreement is $284 billion.

Now, we put that in the budget. That is what we put in the budget. Now, some might say, well, that is not enough, but actually I think it is almost $50 billion more than where we started. I think we started at $236 billion for this highway bill, or somewhere in that range.

So there has been a fair amount of movement upward toward trying to address the issue of infrastructure in this country and making sure that highway construction is adequately funded. So $284 billion is not a small amount of change. It is a rather significant amount of money and is a very strong commitment to the highways.

There is a second amendment floating around here on the issue of highways, which is offered by the Senator from Missouri, and was discussed earlier today, which would change the way that we might add money into the highway bill. We put in the budget resolution a reserve fund which essentially said that more dollars could go into the highway bill, you could get to the number the Senator from West Virginia proposed, if you legitimately raised revenues to pay for it. And legitimately raising revenues means having proposals which actually will produce revenues as versus ones that are a lot of smoke and a lot of mirrors.

So the language is not overly restrictive, it is reasonable. But it does expect that if we raise this highway fund up, it will be done in a way that is paid for appropriately out of highway-related activity, not out of the general fund.

That is a very important point because when this highway bill was put together there was some movement of dollars from the general fund into the highway fund through basically moving around the accounting mechanism for the ethanol tax. So we put in place this reserve fund which does allow for the dollars spent on highways to go up.

I put that in because there were a lot of people here who believed $284 billion was not an acceptable number.

Now, the President says it is an acceptable number. In fact, he said he will veto anything over that number. But I believed as long as it has hard pay-fors we will consider it. And that is reasonable.

Now, the amendment that is floating around here would basically take those hard pay-fors and move them back to what I would call, not illusory because they are not that specious, but they really are not very hard pay-fors. There could be a lot of games played with the language that is being proposed relative to what the pay-fors would be, and you might end up, unfortunately, spending the money but not ever getting the revenues in to cover those costs.

So I oppose that language, too, because I do feel very strongly that if we are going to go above the $284 billion level, we need to go above it with hard pay-fors that come out of highway activity, not out of the general fund.

So these two amendments are floating around here. I guess they are going to be voted in sequence probably. I just want to point out that I think both of them do damage to this budget in the area of fiscal discipline. And the one that is before us right now would raise taxes by $14 billion and increase spending by $35 billion, which is just too much to handle in the context of this budget, where the highway number is an agreed-to number between the two bodies and the President.

Mr. President, I yield the remainder of my time on this amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 241

Mr. BUNNING. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Is there objection to reporting the amendment?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 241.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to repeal the 1993 tax increase on Social Security benefits)

On page 3, line 9, decrease the amount by $0.

On page 3, line 10, decrease the amount by $4,800,000,000.

On page 3, line 11, decrease the amount by $12,500,000,000.

On page 3, line 12, decrease the amount by $14,000,000,000.

On page 3, line 13, decrease the amount by $15,600,000,000.

On page 3, line 14, decrease the amount by $17,000,000,000.

On page 3, line 18, decrease the amount by $0.

On page 3, line 19, decrease the amount by $4,800,000,000.

On page 3, line 20, decrease the amount by $12,500,000,000.

On page 3, line 21, decrease the amount by $14,000,000,000.

On page 4, line 1, decrease the amount by $15,600,000,000.

On page 4, line 2, decrease the amount by $17,000,000,000.

On page 4, line 23, decrease the amount by $0.

On page 4, line 24, decrease the amount by $4,800,000,000.

On page 4, line 25, decrease the amount by $12,500,000,000.

On page 5, line 1, decrease the amount by $14,000,000,000.

On page 5, line 2, decrease the amount by $15,600,000,000.

On page 5, line 3, decrease the amount by $17,000,000,000.

On page 5, line 6, increase the amount by $0.

On page 5, line 7, increase the amount by $4,800,000,000.

On page 5, line 8, increase the amount by $17,300,000,000.

On page 5, line 9, increase the amount by $31,300,000,000.

On page 5, line 10, increase the amount by $46,900,000,000.

On page 5, line 11, increase the amount by $63,900,000.

On page 5, line 14, increase the amount by $0.

On page 5, line 15, increase the amount by $4,800,000,000.

On page 5, line 16, increase the amount by $17,300,000,000.

On page 5, line 17, increase the amount by $31,300,000,000.

On page 5, line 18, increase the amount by $46,900,000,000.

On page 5, line 19, increase the amount by $63,900,000.

On page 30, line 16, increase the amount by $4,800,000,000.

On page 30, line 17, increase the amount by $63,900,000,000.

Mr. BUNNING. Mr. President, today, I rise to offer a very important amendment dealing with taxes on Social Security benefits. For too many years, senior citizens have carried an unnecessary and unfair tax burden on their shoulders. Today we have an opportunity to remove it.

Historically, Social Security benefits were not taxed. However, in 1983, Congress changed the rules of the game. That year, Congress passed legislation to begin taxing up to 50 percent of a senior's Social Security benefit if their income was over $25,000 for a single individual or $32,000 for a couple.

This move subjected many seniors across the country to an unanticipated tax increase and forced them to send a portion of their Social Security benefit back to the IRS.

Mr. BYRD. Mr. President, I oppose the taxation of Social Security benefits. Nevertheless, deficits continue to rise to alarming levels, and the tax cuts authorized by this budget resolution will worsen those deficits significantly. I urge the Finance Committee to pay for any tax cuts included in the reconciliation bill authorized by this budget resolution.

In 1993, Congress was at it again, and that year the Clinton tax was passed. The Clinton tax allows 85 percent of a senior's Social Security Benefit to be taxed if their income is above $34,000 for a single and $44,000 for a couple.

The additional money this tax raises doesn't even go to help Social Security's solvency—instead it goes into the Medicare program.

I was in Congress in 1993, and I fought with many of my colleagues against the Clinton tax. Unfortunately, we lost that fight and the tax went into place.

Some people may argue that this is a tax only on so-called ''rich'' seniors, but that just isn't the case. In fact, the income thresholds both for the 50 percent tax and the 85 percent tax haven't changed since they were first enacted back in 1983 and 1993.

A lot has changed in the last two decades, and more and more seniors are being affected by these taxes. In fact, it

is estimated that over 15 million beneficiaries pay taxes on their Social Security benefits.

Eleven million of these pay taxes on up to 85 percent of their Social Security benefit.

On one hand, we tell seniors to plan and save for retirement, and on the other we tax them for doing just that. In the past, there have been efforts by members of Congress—including myself—to remove the Clinton tax.

Today, the amendment I am introducing finally takes steps to repeal the Clinton tax. The amendment provides additional money under reconciliation so that this tax can be rolled back.

This means that the 85 percent tax tier would be eliminated and the maximum amount of Social Security benefits that could be taxed would be 50 percent.

This amendment will allow millions of seniors to keep more of their Social Security benefits in their pocket. Some of us have been trying to undo this tax for years, and this amendment finally gives us an opportunity to do that.

I urge my colleagues to support this amendment and to end this unfair tax on seniors and their Social Security benefits.

Mr. President, I yield back my time.

The PRESIDING OFFICER. Who yields time off the Republican debate time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, Senator GREGG and I will work out how the time is used right here. It will either come out of the time in opposition or perhaps we could work out how we are using the balance of the time here, the 7½ minutes. Did the Senator want to use the time in opposition or should I use this time?

Mr. GREGG. The Senator may use the time.

Mr. CONRAD. I will use the time and talk about the side by side. So we will be using the 7½ minutes on the other side of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. It is the best way, I say to my colleagues, to try to keep this all on track. We are trying to get to the 1 o'clock mark and be able to proceed with all of the amendments that are stacked.

AMENDMENT NO. 243

Mr. CONRAD. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 243.

Mr. CONRAD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the tax cuts assumed in the budget resolution should include the repeal of the 1993 increase in the income tax on Social Security benefits)

At the appropriate place insert the following:

SEC. .SENSE OF THE SENATE ON REDUCING THE TAX ON SOCIAL SECURITY BENEFITS.

It is the sense of the Senate that the tax cuts assumed in this resolution include repeal of the 1993 law that subjects 85% of certain Social Security benefits to the income tax, provided that the revenue loss to the Medicare Hospital Insurance Trust Fund is fully replaced so that the seniors' access to health care is not adversely affected. If the inclusion of these proposals would otherwise cause the cost of the tax cuts to exceed the level authorized in the resolution, any excess should be fully offset by closing corporate tax loopholes.

Mr. CONRAD. Mr. President, this amendment is very simple. It says it is the sense of the Senate that the tax cuts assumed in this resolution include repeal of the 1993 law that subject 85 percent of certain Social Security benefits to the income tax, provided that the revenue lost to the medical hospital insurance trust fund is fully replaced so that seniors' access to health care is not adversely affected. If the inclusion of these proposals would otherwise cause the cost of the tax cuts to exceed the level authorized in the resolution, any excess should be fully offset by closing corporate tax loopholes.

We are proposing eliminating that tax on Social Security, as Senator BUNNING is proposing. We are proposing doing it in a way that the revenue lost to the Medicare hospital insurance trust fund is fully replaced so that seniors' access to health care is not adversely affected. As I have indicated, if the inclusion of these proposals would otherwise cause the cost of the tax cuts to exceed the level authorized in the underlying resolution, any excess should be fully offset by closing corporate tax loopholes.

This will now be in the queue, along with the Bunning amendment.

I retain my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask the Senator from North Dakota, through the Chair, if he would mind yielding a couple of minutes off the 7½ minutes to the Senator from Kentucky to respond to the Senator's point.

Mr. CONRAD. I am happy to yield 2 minutes to the Senator.

Mr. BUNNING. It won't take long. I am encouraged that the Senator from North Dakota agrees with me that this is an unfair tax. Everybody here knows what a sense of the Senate is. It does not get into law. It is just how we feel and makes ourselves feel good by offering a sense of the Senate. The amendment I have offered actually removes the 35 percent increase that was put on in 1993. The sense of the Senate doesn't touch it. It just says: We should take a look at it. We feel good about doing it. But we are not going to do it at this time.

I urge all of my colleagues who are watching, listening, if they want to really reduce the tax on Social Security recipients, they should vote for the Bunning amendment. If they want to feel good about what they are doing and not really remove the 35 percent tax, then I would encourage them to vote for the amendment of the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Let's be very clear: The legal effect of our two amendments is precisely the same—precisely the same. Why is that the case? Because a budget resolution cannot compel the Finance Committee to do anything in terms of policy. That is just a fact. I know it is confusing to our colleagues, but the chairman has said a dozen times at least on the floor of the Senate that the budget resolution cannot compel the Finance Committee to make any specific policy determination with respect to revenue. All we are doing is telling them how much revenue to raise. That is the same with respect to the appropriations committees. A budget resolution does not tell the appropriators what specific way they are to reach the numbers. It just gives them a number.

So let us be absolutely clear—the force and effect of our two amendments is no different. Senator BUNNING is attempting to send a signal to the Finance Committee about how they should treat the reconciliation process. That is what my amendment does as well. We are sending the same signal in the sense that we are both saying, take this Social Security benefits tax as it relates to income tax off the table.

The place where I think he has made a very important point is that, since these taxes were put in place back in 1993, there has never been any change in the income levels that it relates to.

That is something that I think we can absolutely agree on. This just doesn't make any sense. It is indefensible that there has not been any adjustment. So we are sending this amendment to our colleagues with the hope and the expectation that they will pay the same attention to it that they will pay to the amendment of the Senator from Kentucky. We are about to enter the time when we will cast a series of votes. I don't know how many votes we now have in the queue; I think it is approaching 30 amendments. It may be useful at this point to send a message to our colleagues about how we are going to try to conduct these votes.

We are going to be asking our colleagues to accept short time limits on the votes. People will have a chance to make arguments for and against the amendments to remind people of the subject of their amendments. It is important for colleagues to structure their schedules for the remainder of the day that will allow them to stay in or close to the Chamber. We don't want colleagues to miss votes.

At the same time, we want to move these votes as expeditiously as possible. Thirty votes is just the beginning. Let us alert our colleagues one more time. In addition to the 30 votes, or thereabouts, already in the queue, we have dozens and dozens of additional amendments that have been noticed. When the first vote starts, we will be asking the leadership—at least on our side, and the Senator can speak to his side—to go to Members who have noticed amendments and ask them to sharply reduce the number of amendments they intend to offer.

I thank the Chair.

Mr. GREGG. Mr. President, I will yield 1 minute off of my time, if the Senator from Kentucky needs it.

The PRESIDING OFFICER. There are 3 minutes left on Senator BUNNING's time.

Mr. BUNNING. The only thing I want to say is that my amendment gives the Finance Committee the resources to do this. A sense of the Senate does not give the Finance Committee the resources to make the changes in the law that reduces the 35 percent tax on senior citizens.

I yield back my time.

Mr. REID. Mr. President, what is the next amendment in order?

The PRESIDING OFFICER. The Clinton amendment.

Mr. REID. It is my understanding that on this amendment there are 20 minutes equally divided.

The PRESIDING OFFICER. Fifteen minutes equally divided.

AMENDMENT NO. 244

(Purpose: To expand access to preventive health care services that reduce unintended pregnancy (including teen pregnancy), reduce the number of abortions, and improve access to women's health care)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator CLINTON and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mrs. CLINTON, Mr. KERRY, Mr. CORZINE, Mrs. MURRAY, Mr. LAUTENBERG, and Mrs. FEINSTEIN, proposes an amendment numbered 244.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Mr. President, whether you are pro-life or pro-choice, Democrat or Republican, this amendment advances goals we should all share: reducing the number of unintended pregnancies, abortions, and improving access to women's health care.

This amendment would allow us to increase funding for national family planning, title X, pass the measure Senator SNOWE and I have worked on, and improve awareness of emerging contraception and improved teen pregnancy prevention programs.

One-half of the unintended pregnancies in this country wind up with abortion. Why can't we move forward with this amendment? It should be bipartisan. It is an amendment that would really help—$100 million to help these programs. These moneys come from closing tax loopholes for corporations that go overseas and, I believe, cheat Americans out of their rightful tax dollars. This money would stay in America.

There was a column in the paper yesterday that said this bill—now this amendment—has been greeted with the sound of one party clapping: the Democrats. Why can't we get support from the majority party for this amendment? We continually talk about the issue of abortion. Here is a way to cut as many as 3 million abortions over a 2-year period of time. That seems like a worthy goal. That is what this amendment is all about. It is about fairness, about making progress in a problem that is creating problems in this country. We should hold our heads high in doing this.

I hope this doesn't become a pro-life, pro-choice issue. This is an American issue. It is good for the American people, and it is especially good for young girls, teenagers. We need to stop the scourge of teenage pregnancy. There are only a couple of nations in the world that we are behind in teenage pregnancies. I hope that this amendment will be adopted by an overwhelming vote. I have some doubts that it will be, because we seem to be in partisan mode here, and that is too bad.

I suggest the absence of a quorum and ask that the time run equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. How much time remains on both sides?

The PRESIDING OFFICER. There are 4½ minutes for Senator CLINTON and 7 minutes for the majority.

Mr. CONRAD. Mr. President, I am going to use time off Senator CLINTON's time on this amendment.

We have before us a budget resolution that purports to be fiscally responsible. This budget resolution before us is anything but that. The hard reality is that the budget before us increases the debt every year of its terms by over $600 billion.

When they say this is going to cut the deficit in half, their own document shows their projections of debt increase are over $600 billion a year, each and every year of this budget. That is not fiscally responsible.

I see that the Senator from New York has arrived in the Chamber. I advise her that she has about 3 minutes left of her time.

Mrs. CLINTON. Mr. President, I thank my friend, who knows more about the budget than I think anybody in Washington. He has, once again, done a tremendous job in trying to help educate all of us about the consequences.

I strongly endorse the amendment that Senator REID and I have offered, the Prevention First amendment. This is an area where Senator REID and I absolutely agree that we need to do more to cut the rate of unintended pregnancies; therefore, the rate of abortions in our country.

The statistics are pretty stark that half of the pregnancies in the United States are unintended, and nearly half of those are terminated. Making contraception more accessible will help us reduce the number of unintended pregnancies and abortions.

The Prevention First amendment will ensure there is money in the budget that will provide more family planning services and that will change our health insurance law to give women equal rights of access to prescription contraception. It just boggles my mind that insurance companies pay for Viagra and they will not pay for birth control. I do not understand that at all. That is just backward, in my mind.

It increases the title X services that are so important in providing that support, as well as ending insurance discrimination when it comes to contraceptive coverage.

It provides better public awareness for emergency contraception, which could prevent many thousands of abortions. It is a prescription drug that, if FDA approves over the counter, does not interrupt or disrupt an established pregnancy. According to the Journal of the American Medical Association, there is no risk associated with emergency contraception.

Finally, this amendment provides funding to programs dedicated to decreasing teen pregnancy. In my husband's 1995 State of the Union Address, he made that a goal of his administration, and we accomplished a lot. But we still have a long way to go.

If you are pro-choice or pro-life, if you believe we should do more to find common ground on this often difficult and contentious issue, and if you want to spend some money to save money and decrease abortions and unintended pregnancies, then please support the Clinton-Reid amendment to the budget.

I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I suggest the absence of a quorum, with the time to be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Parliamentary inquiry: In terms of the time, when we

are charging the time equally at this point, we are charging time equally off the amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, parliamentary inquiry: What is left in the queue, so colleagues who are watching can be informed where we stand with respect to the schedule?

The PRESIDING OFFICER. There is the Lautenberg debt limit amendment with 10 minutes equally divided, and Senator GREGG has 5 minutes 40 seconds on the Clinton amendment remaining.

Mr. CONRAD. To recap, if I can, so colleagues understand about where we are, is this correct, that we would have 10 minutes on the Lautenberg amendment equally divided which is in relationship to debt limit?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. And then Senator GREGG has 5 minutes in relationship to the Clinton amendment.

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. Then the schedule of going to the votes that are in sequence would start at 1 o'clock?

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. So our colleagues should be advised that the voting will begin at or about 1 o'clock. Can the Chair advise us of how many amendments are pending?

The PRESIDING OFFICER. There are 25 amendments pending, with the Lautenberg amendment. The Senator from North Dakota has 9 minutes of manager time still left which he can use at any time. The Senator from New Hampshire has 15 minutes remaining.

Mr. CONRAD. So I think it is fair, in terms of advising our colleagues, very shortly we are going to start on a voting sequence that will include—is it 25 amendments?

The PRESIDING OFFICER. Yes, 25.

Mr. CONRAD. So 25 amendments are in queue. We can generally do—correct me if I am wrong—we can roughly do three votes an hour.

The PRESIDING OFFICER. Maybe four.

Mr. CONRAD. I just say, I have never seen us accomplish four. We have tried.

The PRESIDING OFFICER. The Senator from South Carolina is in the chair; we will do four, but he is leaving in a few minutes.

Mr. CONRAD. With 25 votes stacked, we are talking about 8 hours of voting; would that not be correct?

The PRESIDING OFFICER. The math seems sound, yes.

Mr. CONRAD. I thank the Chair. We are awaiting Senator LAUTENBERG to take up the 10 minutes on his amendment, unless Senator GREGG wants the remaining time on the Clinton amendment.

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, will the Chair advise us when the time on the Clinton amendment has been eliminated and the time on the Lautenberg amendment commences?

The PRESIDING OFFICER. There is 1 minute 37 seconds left on the majority side. All time has expired on the minority side.

Mr. CONRAD. I thank the Chair. I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 187

Mr. LAUTENBERG. I call up amendment No. 187 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. SCHUMER, proposes amendment numbered 187.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the debt ceiling reconciliation instruction)

On page 30, strike lines 19 through 23.

Mr. LAUTENBERG. I ask unanimous consent that Senator SCHUMER be added as a cosponsor to amendment No. 187.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, this budget resolution includes a reconciliation instruction to raise the debt limit by $446 billion. That is a lot of money. That is $1,510 for every man, woman, and child in America. I think the Senate ought to have a debate on whether to add $1,500 to the indebtedness of each and every American, and that is why I am offering this amendment.

The amendment is to strike the reconciliation instruction. This budget resolution includes a debt limit increase automatically for one reason: that my friends on the other side of the aisle do not want to have a debate about how exploding budget deficits are piling up our national debt. Instead, what we see is an attempt to hide yet another debt limit increase by burying it deep in the budget.

We used to have debt limit increase debates on a regular basis, and we made it hard to increase the debt limit because we knew ultimately the deficits would overwhelm us.

This record-setting deficit the administration is running will have real consequences for every family. As the Government borrows more money, much of it from foreign central banks, eventually it is going to cause interest rates to go up. It is inevitable. When interest rates go up, it hurts each and every American. Houses cost more. Cars cost more. College certainly costs more. Investment capital for small businesses costs more.

We often hear the money our Government spends is the people's money. That is true, but it is also true that the money our Government borrows is the people's debt.

We passed a bankruptcy bill that I think is punitive to working Americans who lose their jobs, have a catastrophic illness or an injury, or run up their credit card debt to try to pay their bills. Over and over again, our friends on the other side say people have to pay their debts. Well, is this any different?

What I have here is the Bush administration's credit card. We like to use this as a reference. It is issued by the Bank of Our Children's Future. That is what it says. It says the President is over the limit. That is because public debt under this administration has been run up to $7.7 trillion and each American's share of that debt is over $26,000. Hear this: Every American is going to be saddled with a debt amounting to $26,000 as a result of our increasing indebtedness. But $7.7 trillion apparently is not enough, which is where we are. President Bush wants this credit limit increased.

When they make that kind of request, it usually needs some scrutiny. The majority party in the Senate wants to give him that increase, but they want to do it without anybody noticing, without any conversation about it. So they bury it in the budget resolution.

We need to discuss whether it is a good idea to increase this credit limit because each and every American gets stuck paying the bill, including our children and our grandchildren.

We should be talking about paying off the debt on this card, as we did in 1997. I was then the ranking member of the Budget Committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Let us face up to our responsibility. Let us quit piling debt on the backs of our children and grandchildren. I urge my colleagues, support this amendment, let the debate begin, and let us examine it in the light of day.

I ask for the yeas and nays, and I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from New Hampshire has 4½ minutes.

Mr. GREGG. Mr. President, it is not a unique procedure to use reconciliation to address the debt limit. The debt limit is something that as a Government we have to do. If the debt is run up, the debt limit has to be run up or else the bonds cannot be issued in order to set up the debt properly.

If that is not done, what happens? The Government shuts down. So in a number of instances, and I believe even in the Democratic Party, in two instances when the Democratic Party controlled the Senate, reconciliation included the debt limit. So it is the responsible thing to do to have this vehicle available.

That does not mean the Finance Committee will use it. It may be that we will not use it. But we need to have this vehicle available in order to make sure the Government continues to operate. In fact, one could argue that if this amendment were to pass, it would put in jeopardy at some point down the road the operation of the Government because the debt limit might be put in the position where it could not pass. That is not hyperbole. That is a distinct possibility and a hypothetical that could actually occur.

So the responsible thing to do is to have debt limit reconciliation instructions as one of the elements. That is why the Budget Act allows for it. Interestingly enough, this is not something we created. It was created by the Budget Act which was, of course, written under a Democratic Congress. As I mentioned, it has been used twice when the Democratic Party was in the majority. So it is a reasonable approach. It is something that needs to be included within the budget, and I would certainly hope this amendment would be rejected.

I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, is there a response time available on this?

The PRESIDING OFFICER. All time has expired.

Mr. CONRAD. I yield an additional minute to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator is yielded an additional minute.

Mr. LAUTENBERG. I thank the Senator.

Mr. President, I say to the distinguished chairman of the Budget Committee, yes, we have to pay our bills. We cannot ignore our obligations. But when one borrows money, there is a contract that is signed and it is done with an open mind. Here we are being asked to take on more debt without having any discussion about what it is that would compel us to increase the national debt.

The national debt is going to drown us and we now have a chance to examine it in the light of day, and that is what I would like to see us do. That is why we should take it from this budget resolution and discuss it in an open debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, parliamentary inquiry: Having now reached the hour of 1, the order would provide that the votes start at 1; is that correct?

The PRESIDING OFFICER. Votes may begin at this time. Each manager has additional time that does not have to be utilized.

Mr. CONRAD. The chairman of the committee and I have agreed we will put in a quorum call at this moment, and we will remind colleagues that we will begin the voting very shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent the time remaining which I have and the Democratic manager has, Senator CONRAD, that we be able to reserve that time and use it at a later period in the day, during the voting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I now move that we go to the first issue, which is going to be the Medicaid amendment offered by Senator FRIST, the majority leader, and I yield myself a minute on that. Each side has a minute?

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that when we begin to vote the order of votes will be as follows, for the initial set of amendments.

We will begin with the majority leader's amendment relative to Medicaid, which is No. 229; followed by the Bingaman for Senator SMITH amendment on Medicaid, No. 204; followed by the Carper amendment on full consideration of tax cuts, No. 207; followed by the Snowe-Wyden drug pricing amendment, No. 214; followed by the Harkin vocational education amendment, No. 172; followed by the Hutchison-Ensign Border Patrol amendment, No. 218; followed by the Landrieu National Guard amendment, No. 219; followed by the Salazar-Conrad rural education and health amendment, No. 215; followed by the Dorgan runaway corporations amendment, No. 210; followed by the Lieberman-Collins first responder amendment, No. 220; followed by the Vitter port security, amendment, No. 223; followed by the Vitter Corps of Engineers amendment, No. 224; followed by the Allen, as modified, NASA amendment, No. 197; followed by the Sarbanes CDBG amendment, No. 156, followed by the Coleman CDBG amendment, No. 230; followed by the Cochran emergency retirement amendment, No. 208; followed by the Kennedy education amendment, No. 177; followed by the Baucus-Conrad amendment No. 234, agriculture; followed by the Biden COPS amendment, No. 239; followed by the Feinstein State Criminal Assistance Program, No. 188; followed by the Byrd highways amendment, No. 240; followed by the Talent highway amendment, No. 225; followed by the Conrad sense of the Senate regarding Social Security tax, No. 243; followed by the Bunning repeal of Social Security tax, No. 241; followed by the Clinton-Reid prevention first amendment, No. 244; followed by the Lautenberg debt limit amendment, No. 187.

That is the first group of amendments which we will be taking up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, we are going to move to the Frist amendment in a few minutes, and begin to vote.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, through the Chair to the two managers of the bill, it is my personal feeling we shouldn't have the 1 minute on each side. It is an inordinate amount of time. It never amounts to 1 minute. I think we should just vote. When we take 1 minute when we have 25 or 30 votes, it will add an inordinate amount of time to these amendments. I have not spoken to the majority leader, but it would be my feeling that the Members have had

their say and we should run right through the votes.

Mr. GREGG. I think the Democratic leader has made a very constructive suggestion for the process. I would be happy to accept that.

Mr. CONRAD. Mr. President, I personally think that would be a mistake. My experience here has been when we have so many votes occurring that if there is not some explanation, people literally may not know what they are voting on. If we want to reduce it to 30 seconds, I think you need at least a moment for people to have it brought to their attention what the vote pertains to.

I urge us to have at least a limited amount of time for those who are for and against to have some explanation before the vote.

Mr. REID. This can only be done by unanimous consent, obviously. One of the managers of the bill doesn't agree. I should tell everyone this is going to add at least an hour to the votes—I will bet more than that. We have staff here. We have nice staff. If people do not know what the votes are, that is unfortunate. But, anyway, it takes unanimous consent, and I understand that.

Mr. CONRAD. Mr. President, if I could say this: Yes, people have staff. But the staff who are here are the staff of those of us who are managing this resolution. Many individuals don't have staff in this Chamber. I have found that when we start having 25 or 30 votes in a row, Members can get almost disoriented about what they are voting on. I think it would be a mistake not to have a chance to say what it is.

Mr. REID. Does the Senator think that 30 seconds for each side would be better than the 1 minute? Could we accept that? I am indicating that if everything goes well, we will be finished with this stuff at 12 or 1 o'clock tonight.

Mr. CONRAD. I absolutely agree with the Senator on the need to compress the time. As the Senator knows, we have been working diligently to try to organize this in a way that reduces the time. I would accept going to 30 seconds on a side.

Mr. GREGG. I am happy to go to 30 seconds for each side.

Mr. REID. I have not checked with Senator FRIST. I wouldn't want to do anything without checking with him. I don't think it would be appropriate. If he doesn't agree to this, I would be happy to rescind the unanimous consent request. In the meantime, I ask unanimous consent the time between votes be 30 seconds per side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, recognizing that the first amendment to be considered is the Frist amendment, are the yeas and nays ordered?

The PRESIDING OFFICER. They are not.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that all amendments after this amendment be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, before we start, I know the majority leader would agree. We have to keep a better tab on the time around here. It is possible to speed things up. I am sure this vote will take more than 10 minutes. After that I think we should enforce the 10-minute rule. If people can't get here to vote because they have business to conduct, they may have to miss some votes.

I hope the majority would allow the 10-minute vote to be a 10-minute vote. I understand that if there is a vote which is close and people have to play around the votes a little bit, that stalls a little bit. The majority has the right to call votes to a close. I hope they would do it, recognizing that every minute they allow these votes to go beyond the 10 minutes is additional time people could be doing other things.

AMENDMENT NO. 229

The PRESIDING OFFICER. There is now 30 seconds on each side.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise on behalf the majority leader, who is detained at another location. The majority leader's amendment simply accomplishes the best of both worlds in the sense that he continues the reconciliation instruction so we will move forward with Medicaid reform.

This year, he also sets up a commission which makes it very clear that Medicaid reform will not impact services to children or people who are in need but would, rather, look at how we improve this process of delivering Medicaid services without undermining the process of Medicaid services.

As I said before, if we do not move forward with reconciliation this year, we are not going to do it at all.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. SMITH. Mr. President, 200-plus groups who support the Smith-Bingaman amendment believe this would be a poison pill. I fear the same because it tries to put the Senate on record as requiring the Senate Finance Committee, under the Damocles sword of reconciliation, to report out an agreement that Secretary Leavitt may reach with any group of Governors—not even a majority, not even from the National Governors Association.

I urge a ''no'' vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—49

Alexander	Domenici	McConnell
Allard	Ensign	Murkowski
Allen	Enzi	Roberts
Bennett	Frist	Santorum
Bond	Graham	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Specter
Burns	Hagel	Stevens
Burr	Hatch	Sununu
Chambliss	Hutchison	Talent
Coburn	Inhofe	Thomas
Cochran	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	
Dole	McCain	

NAYS—51

Akaka	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Obama
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Chafee	Kennedy	Rockefeller
Clinton	Kerry	Salazar
Coleman	Kohl	Sarbanes
Collins	Landrieu	Schumer
Conrad	Lautenberg	Smith
Corzine	Leahy	Snowe
Dayton	Levin	Stabenow
DeWine	Lieberman	Wyden

The amendment (No. 229) was rejected.

AMENDMENT NO. 204

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate on the Smith amendment.

Mr. GREGG. It is my understanding that the proponents will speak first. We will let the time run.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH. Mr. President, briefly, all the arguments have been made. Everybody knows we are dealing with a Damocles sword when you put reconciliation on Medicaid that covers the most vulnerable Americans. I think right now is simply the time to say vote your conscience.

Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, to the extent there is a Damocles sword, it is hanging over the generations to come who are going to have to pay the bills for our generation. The failure to address those bills today is going to make it virtually impossible for our children and their children to have the quality of life we have had because of the tax burden we are going to pass on. I hope people vote ''no.''

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—52

Akaka	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Harkin	Pryor
Boxer	Inouye	Reed
Byrd	Jeffords	Reid
Cantwell	Johnson	Rockefeller
Carper	Kennedy	Salazar
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corzine	Levin	Stabenow
Dayton	Lieberman	Wyden
DeWine	Lincoln	
Dodd	Mikulski	

NAYS—48

Alexander	Dole	Martinez
Allard	Domenici	McCain
Allen	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Frist	Roberts
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Inhofe	Thomas
Cornyn	Isakson	Thune
Craig	Kyl	Vitter
Crapo	Lott	Voinovich
DeMint	Lugar	Warner

The amendment (No. 204) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ALEXANDER). The majority leader.

Mr. FRIST. Mr. President, I make another appeal to our colleagues. We are going to start strictly cutting off the votes. We are going to ask people to stay in the Chamber or right outside the Chamber. Again, we have a lot of votes. We have to get through them.

I also want to take 2 minutes to address an issue that I mentioned this morning in opening, and it has to do with a particular case in Florida, the Terri Schiavo case. Over the course of the day and, indeed, yesterday, we have been working together, both sides of the aisle, to bring resolution to an issue that has fallen to us which we, for the most part in this body, agree we need to address before leaving today.

I am going to propound two unanimous consent requests. We do not want to have at this point a large debate or discussion on the issue, but it is important that we act now because in working with the House of Representatives, we do, at the end of the day, want to pass legislation. And because they will be going out shortly over the course of the day, we want to make it clear it is an issue we are all working toward and I believe we can solve today and, thus, I will propound will have these two unanimous consent requests. I will explain very briefly the first of the two unanimous consent requests. The House has a bill they have passed. It is a bill that, for the most part, on both sides of the aisle there has been some concern that we have not been able to get unanimous consent just in our discussions. That will be the first unanimous consent request.

The second unanimous consent request will be a private relief bill that is targeted to this particular case. It is a bill that both sides are discussing, and it is a bill on which I think over the next several hours we can come to some sort of mutual agreement.

What is important is that this body act. If we do not act, there is a possibility that a woman who is alive today—and everybody agrees she is alive today—while we are on recess will have termination of all feeding and water. She will be starved to death. Without going into a lot of details—a lot of people are discussing it—that is what we would do from a procedural standpoint.

The first unanimous consent request relates to a House bill that many people told me is unacceptable. The second unanimous consent request relates to a bill on which we worked together and is very targeted.

UNANIMOUS CONSENT REQUEST—H. R. 1332

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1332, the House-passed legislation relating to Theresa Marie Schiavo, that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The majority leader has the floor.

UNANIMOUS CONSENT REQUEST—S. 653

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 653, a bill introduced by Senator MARTINEZ regarding Theresa Marie Schiavo, that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. I object.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Reserving the right to object, we are working with a number of Senators on this side of the aisle to see if we can work out something on this legislation. So I tell the majority leader that we need more time because there is a number of Senators who have concerns. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. FRIST. Mr. President, I will be happy to yield to the floor manager.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a strong supporter of the bill of the Senator from Florida. I think it is absolutely imperative that we as a body take action to give a Federal court an opportunity to review this determination.

A woman's life is at stake, and it is absolutely imperative that we take action today. We are working diligently on both sides—I thank the majority leader and I thank the Senator from Pennsylvania, Mr. SANTORUM—and we are going to take action today. So we have to try to work through some issues to make certain we get that opportunity. But I pledge as the manager of this bill that we will interrupt this bill at any time when we have a resolution so that we can take action to save this woman's life or to give a court an opportunity to review this case.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, there will be opportunities later when we address the bill for people who feel passionately about it to speak. We are on the budget resolution. People know we are working in a bipartisan way to resolve this matter to save her life which, at the end of the day, is the goal.

I request people not say a lot right now so we can proceed with the budget votes unless there is something new to be said; otherwise, we will have an opportunity later tonight.

Mr. REID. I ask for the regular order.

Mr. FRIST. Regular order.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Delaware.

Mrs. FEINSTEIN. Excuse me?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Delaware.

Mrs. FEINSTEIN. May I make a point of parliamentary inquiry?

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would like to know with whom this legislation has been shared? It certainly has not been shared with me, and I do not intend to just sit here while we change the nature of all of these things to put this in the political arena without a hearing.

AMENDMENT NO. 207

The PRESIDING OFFICER. There is 30 seconds on each side on the Carper amendment No. 207. Who yields time?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, this is a simple amendment.

This is a straightforward amendment. If my colleagues agree with me, a U.S. Senator who wants to reduce taxes in a way that decreases the budget deficit, it is OK to do that.

For this Senator or any Senator who wishes to reduce taxes, we can do that under this amendment, but if those taxes increase the budget deficit and the debt for this country, we need to muster 60 votes. The moneys for the offset can come from other taxes or

they can come from reducing spending to provide the offset.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. CARPER. I urge a ''yes'' vote, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the effect of this amendment is obviously to take the reconciliation process out of the budget. The reconciliation process is going to guarantee to the Senate the opportunities to get things done that need to be done without making tax issues a political football. That tax policy was made in 2001 and 2003 to keep that current law. We have seen too many times that laws that have widespread political support are filibustered and do not get passed.

Mr. SESSIONS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 207.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—49

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Landrieu	Schumer
Collins	Lautenberg	Snowe
Conrad	Leahy	Stabenow
Corzine	Levin	Voinovich
Dayton	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	McCain	

NAYS—51

Alexander	DeWine	Martinez
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Brownback	Frist	Santorum
Bunning	Graham	Sessions
Burns	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Cornyn	Isakson	Thomas
Craig	Kyl	Thune
Crapo	Lott	Vitter
DeMint	Lugar	Warner

The amendment (No. 207) was rejected.

AMENDMENT NO. 214

The PRESIDING OFFICER. The next order of business is amendment No. 214 by Senators SNOWE and WYDEN. There is 1 minute evenly divided. Who yields time?

The Senator from Maine

Ms. SNOWE. Mr. President, I am going to be speaking for 30 seconds for both myself and Senator WYDEN on this amendment.

This is the one initiative before the Senate that addresses the escalating costs with respect to Medicare Part D that, as we know, has been reestimated by the administration from $400 billion to $534 billion.

The CBO has stated that our amendment would be able to negotiate real savings. They said there is a potential for some savings if the Secretary were to have the authority to negotiate prices with the manufacturers of single source drugs. Former Secretary Thompson said he wished that he had the opportunity to negotiate. He said that in his press conference upon his resignation.

Finally, 80 percent of seniors support this authority, and so does the American Medical Association for the first time.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am surprised that there are so many wise Members of this Senate who know exactly how the prescription drug bill is going to work when it doesn't even start until January 1, 2006. We took language in Democratic proposals on this subject and put them in a bipartisan bill so that there was a consensus of what ought to be done. Now they want to strike them out.

The chief actuary and OMB says this will not save money. It will not increase competition because we have competition written into this by the plans competing against each other. Don't strike that out.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—49

Akaka	Durbin	McCain
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Graham	Nelson (FL)
Boxer	Harkin	Obama
Brownback	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Collins	Landrieu	Schumer
Conrad	Lautenberg	Snowe
Corzine	Leahy	Stabenow
Dayton	Levin	Wyden
Dodd	Lieberman	
Dorgan	Lincoln	

NAYS—50

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Baucus	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Warner
DeMint	Martinez	

NOT VOTING—1

Voinovich

The amendment (No. 214) was rejected.

AMENDMENT NO. 172

The PRESIDING OFFICER. The next order of business is the amendment No. 172 by Senator HARKIN. There is 1 minute equally divided.

Mr. HARKIN. Mr. President, this amendment restores the Perkins Vocational Education Program and pays for it by eliminating two tax provisions that haven't even come into force yet. We are not raising anyone's taxes. We are not rolling back anything. There are two items in the 2001 tax bill called PEP and Pease. They start next year. They don't have to go into effect.

Who gets the benefits? Ninety-seven percent of the benefits go to people making more than $200,000 a year, and 54 percent go to people making over $1 million a year.

I am just saying, don't let that go into effect. That saves $146 billion over 10 years. This amendment would reduce the deficit with the money, and also put the money into restoring the Perkins Vocational Education Program.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, this amendment increases taxes by $24 billion and purports to give $7.5 billion to vocational education. The bill only controls the top discretionary number Government-wide. So the motion isn't enforceable and would likely be ignored by the committee of jurisdiction. The money could go over into some other account. There is no guarantee that the tax-and-spend amendment will result in one dollar of education.

The subcommittee chairman and the chairman for Education have looked at the budget, and there is money available for it. We know where to get it to make sure vocational education happens. That is why we put the Perkins through already.

I ask the Senate to reject it.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—44

Akaka	Durbin	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Obama
Byrd	Jeffords	Pryor
Cantwell	Johnson	Reed (RI)
Carper	Kennedy	Reid (NV)
Chafee	Kerry	Rockefeller
Clinton	Kohl	Salazar
Conrad	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Dorgan	Lieberman	

NAYS—56

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Baucus	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

The amendment (No. 172) was rejected.

AMENDMENTS NOS. 218 AND 215, EN BLOC

The PRESIDING OFFICER. The next order of business is proposed by Senators ENSIGN and HUTCHISON, amendment No. 218.

Mr. GREGG. I ask unanimous consent we accept the Hutchison-Ensign amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CONRAD. I ask unanimous consent we accept the Salazar amendment No. 215.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc numbered 218 and 215.

The amendments (Nos. 218 and 215) were agreed to.

AMENDMENT NO. 219

The PRESIDING OFFICER (Mr. COLEMAN). The next amendment in order is No. 219 proposed by Senator LANDRIEU, with 1 minute equally divided.

Mr. GREGG. Mr. President, the time will run.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent that Senator LINDSEY GRAHAM be added as a cosponsor on Senator LANDRIEU's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, has the minute run?

The PRESIDING OFFICER. The time has been used.

Mr. GREGG. I suggest we go to a vote.

The PRESIDING OFFICER. All time is yielded back.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the amendment.

The clerk will call the roll.

The assistant bill clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—100

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Frist	Pryor
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Salazar
Burr	Hatch	Santorum
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Thune
Craig	Levin	Vitter
Crapo	Lieberman	Voinovich
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Lugar	
Dodd	Martinez	

The amendment (No. 219) was agreed to.

Mr. GREGG. Mr. President, can I have order. I am going to suggest something, and I would like to get everyone's attention.

The PRESIDING OFFICER. The Senate will come to order.

Mr. GREGG. We are going to move to the Dorgan amendment.

Mr. CONRAD. Could we have order because we are going to be talking about something Members need to hear.

The PRESIDING OFFICER. The Senate will come to order.

AMENDMENT NO. 223

Mr. GREGG. Mr. President, to begin with, I ask unanimous consent that the Vitter amendment No. 223 on port security, a sense of the Senate, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 223) was agreed to.

Mr. GREGG. Mr. President, we are now going to go to the Dorgan amendment for which we will have the 10-minute vote, but we have decided—Senator CONRAD and myself, after consulting with the leadership—that for the next 3 amendments there will be 5-minute votes. There will be no statements between the votes. That will be the Lieberman-Collins amendment on first responders, the Vitter amendment on the Corps of Engineers, and the Allen amendment, as modified, on NASA. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me very quickly explain why we are going to try this experiment on three votes. Here is the situation we face. In 2 hours we have done six amendments. We have 26 amendments in this queue. We have 40 or 50 amendments after that. You do the math: 20 and 40 is 60; three amendments an hour; that is 20 more hours of voting.

Now, we can either subject ourselves to that or try to find a way to break through this morass and make more progress. The leadership has agreed to try on three amendments an experiment: 5-minute votes. Please, colleagues, let's see if we can't make this go more efficiently.

AMENDMENT NO. 210

The PRESIDING OFFICER. The pending question is the Dorgan amendment.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we doing 1 minute a side?

The PRESIDING OFFICER. Thirty seconds.

Mr. DORGAN. Mr. President, the purpose of this amendment is to repeal the provision of the Tax Code that actually rewards companies to shut down their American plant and move their jobs overseas. Yes, we actually reward companies in the current Tax Code for shutting down their American plants and moving jobs. It is the most pernicious part of the Tax Code. In my judgment, this is only a baby step in the right direction.

A vote against this amendment is a vote against fairness and a vote against American jobs. I hope this Senate will approve this amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Is all time yielded back?

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk to called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Arizona (Mr. KYL).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—40

Akaka	Dodd	Landrieu
Bayh	Dorgan	Lautenberg
Biden	Durbin	Leahy
Bingaman	Feingold	Levin
Boxer	Feinstein	Lieberman
Byrd	Harkin	Lincoln
Carper	Inouye	Mikulski
Clinton	Johnson	Murray
Conrad	Kennedy	Nelson (FL)
Corzine	Kerry	Obama
Dayton	Kohl	Reed

Reid	Sarbanes	Wyden
Rockefeller	Schumer	
Salazar	Stabenow	

NAYS—59

Alexander	DeMint	McConnell
Allard	DeWine	Murkowski
Allen	Dole	Nelson (NE)
Baucus	Domenici	Pryor
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Cantwell	Hagel	Specter
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Talent
Cochran	Isakson	Thomas
Coleman	Jeffords	Thune
Collins	Lott	Vitter
Cornyn	Lugar	Voinovich
Craig	Martinez	Warner
Crapo	McCain	

NOT VOTING—1

Kyl

The amendment (No. 210) was rejected.

AMENDMENT NO. 220

The PRESIDING OFFICER (Mr. ISAKSON). The question is on agreeing to the Lieberman-Collins amendment No. 220.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, at the request of a number of Senators who are sponsors of amendments, we have decided that we are going to restore the minute that was equally divided so Members can explain their amendments. But we are staying with the 5-minute vote for the next three amendments. However, we are skipping over Senator ALLEN's amendment because we hope to work that out. That would mean that Senator SARBANES' amendment on CDBG would be the third 5-minute vote. But there will be a minute equally divided before the votes.

I believe we are now on the Lieberman amendment.

The PRESIDING OFFICER. Who yields time on the Lieberman amendment?

The Senator from Maine.

Ms. COLLINS. Mr. President, the amendment Senator LIEBERMAN and I have offered would restore homeland security grant funding to last year's level for the first responder programs and for port security. It is a very modest amendment. Let us remember that when disaster strikes, our citizens do not dial the 202 Washington, DC, area code, they dial 911. It is our firefighters and police officers and our emergency medical personnel who are first on the scene. It is fully offset.

The PRESIDING OFFICER. Who yields time in opposition?

The time is yielded back.

The question is on agreeing to amendment No. 220.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—63

Akaka	Durbin	Murkowski
Allen	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Hutchison	Obama
Bingaman	Inouye	Pryor
Boxer	Isakson	Reed
Byrd	Jeffords	Reid
Cantwell	Johnson	Roberts
Carper	Kennedy	Rockefeller
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Coleman	Landrieu	Schumer
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corzine	Levin	Stabenow
Dayton	Lieberman	Talent
DeWine	Lincoln	Thune
Dodd	Lugar	Vitter
Dole	Martinez	Warner
Dorgan	Mikulski	Wyden

NAYS—37

Alexander	Crapo	Lott
Allard	DeMint	McCain
Bennett	Domenici	McConnell
Bond	Ensign	Santorum
Brownback	Enzi	Sessions
Bunning	Frist	Shelby
Burns	Graham	Smith
Burr	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Hagel	Thomas
Cochran	Hatch	Voinovich
Cornyn	Inhofe	
Craig	Kyl	

The amendment (No. 220) was agreed to.

AMENDMENT NO. 223, AS MODIFIED

Mr. GREGG. Mr. President, I ask unanimous consent that amendment No. 223, agreed to earlier, be modified with the language at the desk. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 223), as modified, is as follows:

On page 63, line 24, after the second period insert the following: ''In dealing with homeland security assistance grants that relate to port security, Congress should (1) allocate port security grants under a separate, dedicated program intended specifically for port security enhancements, rather than as part of a combined program for many different infrastructure programs that could lead to reduced funding for port security, (2) devise a method to enable the Secretary of Homeland Security to both distribute port security grants to the Nation's port facilities more quickly and efficiently and give ports the financial resources needed to comply with congressional mandates, and (3) allocate sufficient funding for port security to enable port authorities to comply with mandated security improvements taking into consideration national, economic, and strategic defense concerns, ensure the protection of our Nation's maritime transportation, commerce system, and cruise passengers, strive to achieve funds consistent with the needs estimated by the United States Coast Guard, and recognize the unique threats for which port authorities must prepare.''.

AMENDMENT NO. 224

Mr. GREGG. Mr. President, I ask unanimous consent that amendment No. 224 be agreed to, regarding the Corps of Engineers.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 224) was agreed to.

Mr. CONRAD. Mr. President, the previous Vitter amendment is vitiated because this is a replacement—it is modified.

Mr. GREGG. Yes.

Mr. CONRAD. Modified by 224.

AMENDMENT NO. 156

Mr. GREGG. Mr. President, we are now on the Sarbanes amendment. If this experiment is going to work—and I am not sure it is—I think it would be more likely to succeed if everybody sat at their desks as the clerk called the roll. Again, we are on the Sarbanes amendment.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, this is a community development block grant amendment. Our mayors, Governors, and county officials are all desperate for this program. This restores the cuts, keeps it in HUD. Bernardi, the Deputy Secretary, said:

> We must continue to support and build upon programs that work, those that have a proven record of flexibility and the ability to fit in the local determined needs. CDBG is such a program and ranks among our Nation's oldest and most successful programs.

This amendment would fund it by using the closing of tax loopholes, which previously passed this body. I urge support for the amendment.

Mr. GREGG. Mr. President, it has the practical effect of increasing spending by $1.9 billion and increasing taxes by $1.9 billion. Of course, there is no binding language that would have any effect on the Appropriations Committee. Jurisdiction as to how this money would be spent would be entirely with the Appropriations Committee, and they could spend it any way they want. It breaks the cap and raises taxes. I hope we oppose it.

Mr. SARBANES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—49

Akaka	DeWine	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Inouye	Nelson (NE)
Carper	Jeffords	Obama
Chafee	Johnson	Pryor
Clinton	Kennedy	Reed
Coleman	Kerry	Reid
Conrad	Kohl	Rockefeller
Corzine	Landrieu	
Dayton	Lautenberg	

Salazar	Schumer	Voinovich
Sarbanes	Stabenow	Wyden

NAYS—51

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Murkowski
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Collins	Isakson	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Thune
Crapo	Lugar	Vitter
DeMint	Martinez	Warner

The amendment (No. 156) was rejected.

The PRESIDING OFFICER. The Senator from Texas.

CHANGE OF VOTE

Mrs. HUTCHISON. Mr. President, on rollcall No. 65, I voted ''yea''. It was my intention to vote ''nay.'' Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. GREGG. We have now done a 5-minute vote two times. Senator CONRAD and I were wondering what the reaction of the Chamber is. We thought we would ask for a show of hands.

How many want to keep going 5 minutes or go back to 10 minutes? All those in favor of 5 minutes raise your hand.

(Showing of hands.)

Mr. GREGG. How many want to stay at 10 minutes?

(Showing of hands.)

Mr. GREGG. We are going to try 5 minutes some more. What a democracy. It is very impressive.

AMENDMENT NO. 230

The PRESIDING OFFICER. The question is on the Coleman amendment No. 230. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, my amendment is simple. It says no cuts in the Community Development Block Grant Program or other programs such as the Community Service Block Grant Program, the Brownfield Redevelopment Program, and the Rural Housing and Economic Development Program.

My amendment is fully offset by function 920.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. COLEMAN. Yes, I yield.

Mr. SARBANES. Mr. President, having lost the previous amendment, I support the amendment of the Senator from Minnesota. It is not my preference to do an across-the-board cut of other programs, but the CDBG Program is so important that we should adopt this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, of course, the committee of jurisdiction will have the decision on how these monies are spent and what decisions are made. But the practical effect—I think Members should know this—the practical effect of a 920 cut is an across-the-board cut. So, for example, a $2 billion item such as this means a billion dollars comes out of defense and a certain percentage comes out of education, a certain percentage comes out of health care, a certain percentage comes out of homeland security. That is the way this would work were the Appropriations Committee to follow these instructions.

The PRESIDING OFFICER. The question is agreeing to amendment No. 230.

Mr. SARBANES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—68

Akaka	Domenici	Murray
Allen	Dorgan	Nelson (FL)
Baucus	Durbin	Nelson (NE)
Bayh	Feingold	Obama
Biden	Feinstein	Pryor
Bingaman	Harkin	Reed
Bond	Hutchison	Reid
Boxer	Inouye	Rockefeller
Burns	Isakson	Salazar
Byrd	Jeffords	Santorum
Cantwell	Johnson	Sarbanes
Carper	Kennedy	Schumer
Chafee	Kerry	Smith
Chambliss	Kohl	Snowe
Clinton	Landrieu	Specter
Coleman	Lautenberg	Stabenow
Collins	Leahy	Talent
Conrad	Levin	Thune
Corzine	Lincoln	Vitter
Dayton	Lugar	Voinovich
DeWine	Martinez	Warner
Dodd	Mikulski	Wyden
Dole	Murkowski	

NAYS—31

Alexander	DeMint	Lott
Allard	Ensign	McCain
Bennett	Enzi	McConnell
Brownback	Frist	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Coburn	Gregg	Stevens
Cochran	Hagel	Sununu
Cornyn	Hatch	Thomas
Craig	Inhofe	
Crapo	Kyl	

NOT VOTING—1

Lieberman

The Amendment (No. 230) was agreed to.

Mr. GREGG. Mr. President, please recognize Senator BAYH.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

CHANGE OF VOTE

Mr. BAYH. Mr. President, on rollcall vote No. 66, I was present and voted ''aye.'' The official record has me listed as ''absent.'' Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. BURNS. Mr. President, I ask unanimous consent on amendment No. 230 to change my vote. I voted ''nay''. I ask unanimous consent to change my vote to ''yea''. This change does not alter the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. COLEMAN. I move to reconsider the vote.

MR. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 208

The PRESIDING OFFICER. There is 1-minute debate on Cochran amendment No. 208.

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this amendment seeks to ensure that it is Congress who sets the discretionary caps and enforces them. It does not transfer to the President a new power of enforcement. If the President submits an urgent supplemental, as he has done now, and the House passes a supplemental bill and it comes to the Senate, if we add an emergency designation for an item, you can make a 60-vote point of order against that if it exceeds the caps, and we enforce that cap in that fashion.

This adds that the President has to enforce it by specifically agreeing that it is an emergency. That is not in the law now, and it should not be added on this resolution.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this returns us to a point of order that existed in prior days when the President participated in emergency designations relative to nondefense activity. It only applies to nondefense activity. It avoids issues such as placing in emergency bills items which are clearly not emergency issues unless the President agrees they are emergency issues also.

I think it creates a much more balanced approach to how we address spending, and it protects the cap and does not allow the emergency bills to basically circumvent the cap.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 208.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania, (Mr. SANTORUM).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—73

Akaka	DeWine	Mikulski
Allard	Dole	Murkowski
Allen	Domenici	Murray
Baucus	Dorgan	Nelson (FL)
Bennett	Durbin	Nelson (NE)
Biden	Feingold	Obama
Bingaman	Feinstein	Pryor
Bond	Harkin	Reed
Boxer	Hatch	Reid
Brownback	Hutchison	Roberts
Bunning	Inouye	Rockefeller
Burns	Isakson	Salazar
Burr	Jeffords	Sarbanes
Byrd	Johnson	Shelby
Cantwell	Kennedy	Smith
Carper	Kerry	Snowe
Chambliss	Kohl	Specter
Clinton	Landrieu	Stabenow
Cochran	Lautenberg	Stevens
Coleman	Leahy	Talent
Collins	Levin	Thune
Conrad	Lincoln	Warner
Corzine	Lott	Wyden
Craig	Martinez	
Dayton	McConnell	

NAYS—26

Alexander	Enzi	Lugar
Bayh	Frist	McCain
Chafee	Graham	Schumer
Coburn	Grassley	Sessions
Cornyn	Gregg	Sununu
Crapo	Hagel	Thomas
DeMint	Inhofe	Vitter
Dodd	Kyl	Voinovich
Ensign	Lieberman	

NOT VOTING—1

Santorum

The amendment (No. 208) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 177, AS MODIFIED

The PRESIDING OFFICER. There is now 1 minute of debate on the Kennedy amendment.

Mr. KENNEDY. Mr. President, I have a modification at the desk and ask that my amendment be modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 177), as modified, is as follows:

(Purpose: To maintain college access and close corporate tax loopholes by an amount equal to $5.4 billion, enough to: (1) restore education program cuts slated for vocational education, adult education, GEAR UP, and TRIO, (2) increase the maximum Pell Grant scholarship to $4,500 immediately, and (3) increase future math and science teacher loan forgiveness to $23,000 without increasing the deficit)

On page 3, line 10, increase the amount by $723,0000.

On page 3, line 11, increase the amount by $3,803,000,000.

On page 3, line 12, increase the amount by $666,000,000.

On page 3, line 13, increase the amount by $227,000,000.

On page 3, line 14, increase the amount by $55,000,000.

On page 3, line 19, increase the amount by $723,000,000.

On page 3, line 20, increase the amount by $3,803,000,000.

On page 3, line 21, increase the amount by $666,000,000.

On page 4, line 1, increase the amount by $227,000,000.

On page 4, line 2, increase the amount by $55,000,000.

On page 4, line 7, increase the amount by $5,389,000,000.

On page 4, line 8, increase the amount by $5,000,000.

On page 4, line 9, increase the amount by $15,000,000.

On page 4, line 10, increase the amount by $25,000,000.

On page 4, line 11, increase the amount by $40,000,000.

On page 4, line 16, increase the amount by $723,000,000.

On page 4, line 17, increase the amount by $3,803,000,000.

On page 4, line 18, increase the amount by $666,000,000.

On page 4, line 19, increase the amount by $227,000,000.

On page 4, line 20, increase the amount by $55,000,000.

On page 17, line 16, increase the amount by $5,389,000,000.

On page 17, line 17, increase the amount by $723,000,000.

On page 17, line 20, increase the amount by $5,000,000.

On page 17, line 21, increase the amount by $3,803,000,000.

On page 17, line 24, increase the amount by $15,000,000.

On page 17, line 25, increase the amount by $666,000,000.

On page 18, line 3, increase the amount by $25,000,000.

On page 18, line 4, increase the amount by $227,000,000.

On page 18, line 7, increase the amount by $40,000,000.

On page 18, line 8, increase the amount by $55,000,000.

On page 30, line 16, decrease the amount by $723,000,000.

On page 30, line 17, decrease the amount by $5,474,000,000.

On page 36, line 21, increase the amount by $8,000,000.

On page 36, line 22, increase the amount by $8,000,000.

On page 36, line 23, increase the amount by $93,000,000.

On page 36, line 24, increase the amount by $93,000,000.

On page 48, line 6, increase the amount by $5,381,000,000.

On page 48, line 7, increase the amount by $715,000,000

Mr. KENNEDY. I have cleared that both with the majority leader and minority leader.

Mr. President, my amendment as modified increases the education funding by $5.4 billion paid for by the corporate tax loophole closure and now includes no additional deficit reduction.

The amendment does three things. No. 1, it will make immediately available the Pell grant increase to $4,500. No. 2, it provides for the protection of the GEAR UP Program, the TRIO Programs, and vocational education. No. 3, it will ensure 60,000 math and science teachers every single year. That is effectively what this amendment does.

The PRESIDING OFFICER. The time has expired.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I would agree that this amendment does increase taxes by $5.4 billion. I could not agree that it will actually wind up adding money for education. It gives the nonbinding suggestion that it be directed toward various higher education programs, but it does not guarantee it. The Budget Resolution controls the top-line discretionary number government-wide. No such suggestion is enforceable. There is no guarantee that this tax-and-spend amendment will result in one new dollar for education, let alone the programs suggested by the amendment. I ask that my colleagues vote no.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 177, as modified.

The clerk will call the roll.

The assistant journal clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—51

Akaka	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Obama
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Chafee	Kennedy	Rockefeller
Clinton	Kerry	Salazar
Coleman	Kohl	Sarbanes
Collins	Landrieu	Schumer
Conrad	Lautenberg	Snowe
Corzine	Leahy	Specter
Dayton	Levin	Stabenow
DeWine	Lieberman	Wyden

NAYS—49

Alexander	Domenici	McConnell
Allard	Ensign	Murkowski
Allen	Enzi	Roberts
Bennett	Frist	Santorum
Bond	Graham	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith
Burns	Hagel	Stevens
Burr	Hatch	Sununu
Chambliss	Hutchison	Talent
Coburn	Inhofe	Thomas
Cochran	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	
Dole	McCain	

The amendment (No. 177), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 234

The PRESIDING OFFICER. There is 1 minute each on the next amendment. Senator BAUCUS is recognized.

Mr. BAUCUS. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment strikes the cuts in the budget resolution with respect to agriculture. Two main points: Today, agricultural spending constitutes 1 percent of total Federal spending. These cuts here constitute 16 percent of the cuts in the budget resolution. It is just not right to single out agriculture 16 times more than other cuts in this resolution.

No. 2, the Europeans today spend $37 billion a year on agricultural price supports. We spend about $17 billion, half of what they spend. We should not unilaterally disarm now, before the Doha WTO talks.

Two points why the amendment should be agreed to. We should not make these cuts.

Mr. CHAMBLISS. Mr. President, the Senator from Montana is correct; that the cuts in agricultural spending now constitute 16 percent. That is another good reason why we should have supported Medicaid savings. We wouldn't be in this position now.

What we committed to do relative to agriculture savings is, first of all, not to change the policy in the farm bill. We are not going to do that. We are simply not going to change policy.

Lastly, let me just say that over the last 3 years, farmers themselves have saved $5 billion per year from the projected farm bill expenditures in 2002. If we cannot find $2.8 billion over the next 5 years, then something is wrong. We are going to find it. We are going to treat every commodity fairly and equitably, and every title of the farm bill fairly and equitably in achieving these savings. I urge a ''no'' vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54.

[Rollcall Vote No. 69 Leg.]

YEAS—46

Akaka	Durbin	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

NAYS—54

Alexander	Bennett	Bunning
Allard	Bond	Burns
Allen	Brownback	Burr
Chafee	Graham	Santorum
Chambliss	Grassley	Sessions
Coburn	Gregg	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Snowe
Collins	Hutchison	Specter
Cornyn	Inhofe	Stevens
Craig	Isakson	Sununu
Crapo	Kyl	Talent
DeMint	Lott	Thomas
DeWine	Lugar	Thune
Dole	Martinez	Vitter
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Murkowski	
Frist	Roberts	

The amendment (No. 234) was rejected.

AMENDMENT NO. 239

The PRESIDING OFFICER. There is 1 minute equally divided on the Biden amendment.

Mr. CONRAD. Mr. President, if we might have a moment to review for our colleagues where we stand, I think it is important to do so at this moment. I alert our colleagues that we have nine more amendments in this queue. We have 33 additional amendments noticed. That is 42 total. We are doing just over four amendments an hour. If we continue on this course, we are going to be here until 2 or 2:30 this morning.

There are a number of colleagues who have multiple amendments still noticed. I am asking colleagues to please notify leadership, please notify the whip, of what amendments you can wait on until another vehicle and another time.

At this point, I plead with colleagues. Let us not have a situation in which we are here until 3 o'clock this morning. This is our opportunity now during these votes for Members to notify which amendments they are willing to hold off on. Please do that.

Mr. REID. Mr. President, the manager of our bill, the Senator from North Dakota, is very busy, and his person to work with on these amendments is Senator DURBIN. If people would help Senator DURBIN and Senator CONRAD and help us move through amendments on our side.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, my amendment restores $1 billion for local law enforcement, three big programs that have essentially been zeroed out, the COPS Program, the law enforcement block grants. Four years ago we spent $2.3 billion helping local law enforcement. It is down to $118 million.

My friend from New Hampshire said we are going to prove we can end the program. Let us pick one that is not working to end. This one works.

I urge my colleagues to support the amendment.

Mr. GREGG. Mr. President, the COPS Program was a program put in place by President Clinton. It was supposed to have expired 5 years ago. It was fully funded under President Clinton, and 100,000 police officers were put on the streets; in fact, 110,000. It continues to exist even though it has served its purpose, and there was a consensus that it would not go any longer. It is time to ask the program to be terminated.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CORNYN). Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant journal clerk called the roll.

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—45

Akaka	Durbin	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

NAYS—55

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Roberts
Bennett	Ensign	Santorum
Bond	Enzi	Sessions
Brownback	Frist	Shelby
Bunning	Graham	Smith
Burns	Grassley	Snowe
Burr	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Inhofe	Thomas
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

The amendment (No. 239) was rejected.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MARTINEZ. I ask unanimous consent the call for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

Mr. FRIST. Mr. President, if we could have regular order, just a very brief explanation and we will proceed. We are going to interrupt the budget for a few minutes to discuss a bill we have been talking about over the course of the day. It has to do with a particular case in Florida. We will talk a little bit about the background for a very limited period of time. Then we will resume with the debate on the budget and the amendment process. This should take a total of about 15 or 16 minutes. It is important we do it now. The House is preparing to leave—if they have not left—and the immediacy of this bill centers on the life of

a particular person. That is why we are interrupting the debate now.

With that, I turn to my colleague.

Mr. REID. Mr. President, I extend my appreciation to many Members of this caucus for their cooperation. This is a very difficult issue. It has been hard for everyone. I especially applaud my friend from Michigan, Senator LEVIN. I joke with him sometimes, but he is a Harvard-educated lawyer, and he really lives every minute of that. He understands the law, and he has helped the Senate get something that is appropriate for what we are trying to do. I appreciate that very much. A number of other Senators, including the distinguished Senator from Oregon, have worked with us, and I will not run through the entire list, but we have had Senator BAUCUS, Senator FEINSTEIN, Senator HARKIN, Senator MURRAY. We have had a lot of cooperation. I apologize because I have left some names out. It is very difficult.

We believe we have an obligation to do something. Something is going to happen anyway. I think this will wind up being the best of what we could do.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 653, which is at the desk, that relates to Terri Marie Schiavo; that there be 15 minutes of debate on the bill equally divided between the two leaders or their designees; provided further no amendments be in order; following that debate the bill be read the third time, and the Senate proceed to a vote on passage of the bill, with no further intervening action or debate.

Mr. REID. Reserving the right to object, the amendment that has been worked on the past few hours, is it at the desk?

Mr. MARTINEZ. The language is at the desk.

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The bill is at the desk.

Mr. REID. Mr. President, I also ask consent that this be increased to 16 minutes because the Senator from Florida, Mr. NELSON, wishes to spend a couple minutes on it.

Mr. WYDEN. Mr. President, reserving the right to object, and I do not intend to object, there is going to be 15 minutes on each side?

Mr. REID. No. Seven and a half minutes to you, a minute to the Senator from Florida, and that is the only request for time I have received.

Mr. WYDEN. I thank the Senator and withdraw my reservation.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there has been a little confusion because there has been different versions of this bill circulating. I want everybody to know the version of the bill we are working on, which the unanimous consent relates to, is a brandnew bill as of a few moments ago which contains the modifications that we have worked out.

Mr. REID. That is true.

Mr. MARTINEZ. Yes.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 653) for the relief of the parents of Theresa Marie Schiavo.

Mr. MARTINEZ. Mr. President, in 1990, at the age of 27, Theresa Marie Schiavo, a Florida resident, suffered a heart attack which resulted in brain damage from a lack of oxygen. As a result, she was taken to the hospital and a feeding tube was inserted at that time to provide nutrition and hydration to keep her alive.

Over the last 15 years, there has been a very difficult and long protracted legal struggle in Florida over whether the parents' wishes should prevail, who wish for her to continue to receive food and hydration, or the husband's wishes.

A court order has been entered. The effect of that court order is that tomorrow, on March 18 of this year, the food and hydration would be withdrawn from this woman.

The effort of our bill is very narrowly tailored to provide relief to this young woman so that a Federal judge in Florida will have the opportunity to do a de novo review of all that pertains to this case to ensure that her constitutional rights have been protected, to ensure that under the 14th amendment due process has been exhausted, and to ensure, without precluding either outcome in the case, that the Federal review of this case could provide the same type of relief that we would provide to any other person in the State of Florida who might be put to death as a result of a court order, including those who might be doing so because of criminal conduct.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Whoever has time, could they just yield 1 minute to me?

Mr. President, first of all, I want to thank people who have worked out the changes in this bill, which make it a better bill. From my perspective, it is still a mistake, and I intend to vote no if there is a rollcall vote.

A number of people have asked me whether I now favor this bill with the changes. My answer is no. I think it is a better bill with the changes. It is a bill which avoids some damaging precedents.

We can explain the changes. The most important one is explicitly this does not create a precedent. Secondly, it is not a 12-month period the parents can proceed in. It is a 30-day period that they have. So we do not have a situation where they wait 12 months prior to initiating the case.

The court has discretion to issue a stay. It is not mandatory. It is not a bill for the relief of Theresa Marie Schiavo. It is a bill which gives the parents the opportunity, within a short period of time, to go to court, so it is technically for their relief, not for her relief.

So I wanted to make it clear to the people in the Senate who asked, ''Does this mean you now favor this?'' If there is a rollcall, I intend to vote no. I think it is a mistake. If it is a voice vote, I intend to vote no, for whatever relevance that has, except I do not want to mislead anybody, by proposing these things, that now suddenly I think this is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first of all, I thank the Senator from Florida for helping accept these modifications. I thank the leaders on both sides, Senator FRIST and Senator REID, for a determined effort in the last few hours to make certain this bill goes to the House in time.

I think all of us have in our mind's eye the face of that lovely young woman. It is very much in my mind, the smile of that young woman. Her parents want to give her a chance. I think of my own daughter. We ought to give her a chance. And this is our opportunity to do it. I hope very much the House will give this a chance.

I also thank my colleague from Pennsylvania, Senator SANTORUM, who first brought this to my attention this afternoon. This is the right thing to do, colleagues. Let's pass this.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I yield 2 minutes to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, will the majority leader yield for just a brief statement?

Mr. FRIST. I will.

Mr. REID. Mr. President, I talked about everybody except one of the most important people, if not the most important person, this afternoon, and that is Senator NELSON from Florida. He has been here during the whole day, and I want to extend my appreciation to him.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will be very brief. This is an opportunity to talk to a number of my colleagues.

As most people know, this is coming to the floor very quickly. And the real, fundamental reason is, if we do not act, there is a good chance that a living human being would be starved to death in a matter of days. That is why the action now. That is why we are, not rushing things, but deliberating quickly, so we can get it to the House of Representatives.

She will be starved to death next Friday. I have had the opportunity to look at the video footage upon which the initial facts of this case were based. And from my standpoint as a physician, I would be very careful before I would come to the floor and say this,

that the facts upon which this case were based are inadequate. To be able to make a diagnosis of persistent vegetative state—which is not brain dead; it is not coma; it is a specific diagnosis and typically takes multiple examinations over a period of time because you are looking for responsiveness—I have looked at the video footage. Based on the footage provided to me, which was part of the facts of the case, she does respond.

That being the case, and also recognizing she has not had a complete neurological exam by today's standards—allegedly, she has not had a PET scan or MRI scan; not that those are definitive, but before you let somebody die, before you starve somebody to death, you want a complete exam and a good set of the facts of the case upon which to make that decision.

All we are saying today is, do not starve her to death now—forever, I would argue—but establish the facts based on medical science today, and then make a determination in the future. That is what we will accomplish with passage of this bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, the Senate is now addressing probably the most gut-wrenching decision that an American family can ever face. Without even a single hearing, without any debate whatever, the Senate is tackling an extraordinarily sensitive concern that involves morals and ethics and religious principles, and this troubles me greatly.

The practice of medicine and the regulation of it throughout our history has been properly left by the Constitution to the States. Now, regardless of how a Senator might feel about this tragic case in Florida—and feelings certainly run very high—a Senator ought to reflect on the implications of Federal intrusion before we cast this vote.

I am particularly troubled at the prospect of setting a precedent that is going to have the Congress, in effect, playing ''medical czar'' in case after case because, colleagues, there will be thousands of cases just like this.

I would ask the Senators, will the steps of the Capitol be the new gathering place for America to wrestle with these situations that all concerned consider tragic? I think that is a mistake. That is why I am going to vote against this legislation.

Now, this legislation has particular repercussions for the people of my State. We have voted twice for assisted suicide. I will tell colleagues, I voted against both of those measures on assisted suicide. And I joined all of you, I think, here today in opposing Federal funding for assisted suicide. But I think these matters are not ones where we should trample on the prerogatives of the State quickly. And that is what we are doing today—without a single hearing, without a single opportunity for us to even hear from those most knowledgeable in the field.

I know many colleagues want to speak on this, and I want to respect them. I would note that as a result of the cooperation shown, particularly by colleagues on the other side of the aisle, Senator FRIST and others, there has been language added to this proposal so as to at least attempt to protect any State that has acted in this area. My guess is, when the Supreme Court tackles this, they are going to declare it unconstitutional.

But as we go to the vote on this matter, I would urge colleagues to think about what it is going to mean when people from all over this country, all of our States, all of our communities, ask the Congress to step in on these kinds of cases. I think that is a very troubling precedent. It is my intention to vote no.

I thank my colleagues, and particularly the majority leader for his courtesy. I yield the floor, as many others wish to speak on this matter.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I yield 3 minutes to Senator SANTORUM from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank all those involved. I thank the two leaders for their conscientious effort in getting this accomplished. I thank Senator CONRAD, and Senator MARTINEZ, obviously, for his sponsorship of this legislation, and all the others who worked with us. Even though, as Senator LEVIN and Senator WYDEN said, they oppose this legislation, they understood the importance of this issue to colleagues on both sides of the aisle and were willing to work with us to improve the bill and, nevertheless, to allow us its passage. So I want to thank everyone concerned.

I want to explain, very briefly, what this bill does. This bill simply gives a Federal court the ability to review the State court's action. Just yesterday, in California, a man was sentenced to death for killing two people. He will have ample opportunity to have everything the California courts did reviewed by the Federal court under a habeas corpus appeal. He will have multiple appeals for Federal courts to look to see whether the State court in California properly behaved in providing him his due process rights under the 14th amendment—a multiple murder.

Terri Schiavo has done one thing wrong: she did not have a living will. But the Florida courts gave her a death sentence. They said that her feeding tube and hydration will be removed until she is dead. And no one but for this bill and the Federal courts will have any right to look to see if her due process rights were followed by the Florida courts.

This does not get us involved in a medical decision. This does not get us involved in making decisions of life and death. It simply protects the constitutional rights of someone whose only—only—mistake was not to have a living will. Should we not give someone who is in that situation, who has been sentenced to death by a court on a State level, the right for Federal court review to determine whether her rights were protected by those courts? That is all we ask in this piece of legislation. It is narrow. It applies only to her, to no one else. It sets no precedent. We specified, thanks to Senator WYDEN's amendment, that it sets no precedent for any other action.

So I would encourage my colleagues, as we just have been through a horrific death penalty case in California, to understand that there is a proper role for Federal courts to look to make sure that due process was followed. That is all we are asking for here today.

Thank you, Mr. President.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, how much time is left on both sides?

The PRESIDING OFFICER. The minority has 1 minute 41 seconds. The majority has 1 minute 54 seconds.

Mr. REID. Mr. President, I yield 1 minute to the Senator from Florida, and 42 seconds to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, this bill we are considering is a good-faith, bipartisan effort to allow a Federal court in my State to review this case. One of the improvements of this legislation was that it changed the original draft directing a Federal court how it should issue injunctive relief because constitutionally we cannot direct a Federal court, even in law.

I support this bill so that this case can be reviewed and decided in a timely manner. And, indeed, it underscores the need for us to promote living wills so that a person's wants and desires will be carried out when they are in an incapacitated condition.

Mr. HARKIN. Mr. President, I thank both Senators from Florida. Senator MARTINEZ came to me with this last week. We are doing this personal bill because it is so time sensitive. But let's not forget that there are hundreds and thousands of people with disabilities, both physical and mental, who face similar situations. That is why last week when this was brought to my attention, I said to my friend from Florida that we ought to do some kind of a habeas type of proceedings for these people that are at the end of the rope and yet there is no one speaking for them. So while we pass this today for a woman in Florida, I hope when we come back after the recess we can work together in a bipartisan fashion to fashion some kind of legislation that will give people with disabilities the ability to take one last look at their case before the plug is pulled.

I hope we can work on that so we don't have case after case after case coming in here, but we can deal with it in a broad, general context to protect the rights of people with disabilities.

Mr. MARTINEZ. Mr. President, I yield 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I thank the Senator from Florida for his outstanding leadership on this extraordinary remedy for a woman who, when I observed her on videotapes, clearly is conscious and has the ability to feel.

I believe in the sanctity of human life. I think most of us feel in good conscience we can't just sit by and allow this innocent woman to starve to death. Just because she has lost her ability to verbally communicate her feelings in no way means that she has lost her desire to live or her right to life. When in doubt, I think it is appropriate and, indeed, logical to presume that people want to live.

I am proud of the Senate and Senator MARTINEZ for his leadership in helping to protect Terri Schiavo's right to life.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. To close, I thank the leadership of the minority and majority. I never anticipated that my first legal measure on the floor of the Senate would be something such as this. I am very pleased that we have had the cooperation we have had. I thank Senators HARKIN and CONRAD and so many others on our side of the aisle who have worked with me tirelessly to get to this point and the encouragement they provided me.

By voting for this bill, we will simply be allowing the Federal judge to give one last review, one last look in a case that has so many questions, that has so many anxieties, and that will provide us the kind of assurance before the ultimate fate of this woman is decided to know that we did all we could do and that every last measure of review was given her, just like it would have been given to a death row inmate convicted and sentenced to die.

I ask for a vote in support of the measure that we might keep Terry Schiavo alive and give her a chance to have a Federal review of her case.

The PRESIDING OFFICER. All time has expired.

Mr. LEVIN. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I want to make it clear that although I believe it is a mistake for Congress to be moving into this area with this haste and speed, in the most difficult decision-making a family could ever face—I intend to vote no—the language in section 1 also makes it clear that a Federal court would have to find a violation of a constitutional right or a right under U.S. law in order to provide an order that she be maintained on life support.

It is very clear in here that there has to be a violation of the U.S. Constitution or Federal law for a Federal court to provide the continuation of life support.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is on the passage of the bill.

The bill (S. 653) was passed, as follows:

S. 653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

Mr. REID. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR THE FISCAL YEAR 2006—Continued

AMENDMENT NO. 188

The PRESIDING OFFICER. There is now 1 minute of debate on Feinstein amendment No. 188. Who yields time?

The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, this is a sense-of-the-Senate resolution, submitted by myself and Senators KYL, HUTCHISON, CORNYN, SCHUMER, and CLINTON, having to do with the State Criminal Alien Assistance Program.

As we all know, illegal immigration is the responsibility of the Federal Government. Since early 1990, the Federal Government has provided some reimbursement to States. That authorization has run out. We have just passed it out of the Judiciary Committee this morning.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, we have serious reservations about SCAAP which we discussed earlier when we debated this amendment. However, since this amendment is a sense of the Senate and since we are getting to a point where some of these sense of the Senates we think we can take, this one is clearly at the margin on that exercise, but rather than going through the exercise of a vote on it, we accept the amendment with prejudice.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 188) was agreed to.

AMENDMENT NO. 240

The PRESIDING OFFICER. There is now 1 minute for debate on Byrd amendment No. 240.

The Senator from West Virginia.

Mr. BYRD. Mr. President, this amendment would boost the amount of funding in the budget to allow for a highway bill totaling $318 billion. That is the same size as the highway bill we passed last year. Every Senator should look at the table on their desk and see how much money and how many jobs he or she is foregoing by voting against this amendment. The offsets for the amendment are not new taxes. The offsets are precisely the same offsets that were used in the finance title of last year's highway bill. I urge the Senate to approve the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, there is an agreement—and it is fairly well agreed to, not only within this body but on the House side and with the President—that the highway bill will be $284 billion. That is funded in this budget resolution. This would increase that funding by approximately $30 billion. In addition, it raises taxes by $14 billion. It is a classic tax-and-spend amendment. I hope it will be defeated.

The PRESIDING OFFICER (Mr. VITTER). The question is on agreeing to amendment No. 240.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Texas (Mr. CORNYN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 54, as follows:]

[Rollcall Vote No. 71 Leg.]

YEAS—45

Akaka	Durbin	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

NAYS—54

Alexander	Coleman	Gregg
Allard	Collins	Hagel
Allen	Craig	Hatch
Bennett	Crapo	Hutchison
Bond	DeMint	Inhofe
Brownback	DeWine	Isakson
Bunning	Dole	Kyl
Burns	Domenici	Lott
Burr	Ensign	Lugar
Chafee	Enzi	Martinez
Chambliss	Frist	McCain
Coburn	Graham	McConnell
Cochran	Grassley	Murkowski

Roberts	Snowe	Thomas
Santorum	Specter	Thune
Sessions	Stevens	Vitter
Shelby	Sununu	Voinovich
Smith	Talent	Warner

NOT VOTING—1

Cornyn

The amendment (No. 240) was rejected.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENTS NOS. 159; 160; 164; 194; 209; 226; 180, AS MODIFIED; 198; 153, AS MODIFIED, AND 182, EN BLOC

Mr. GREGG. Mr. President, I wish to propound a set of unanimous consent requests. We have 11 amendments that have been cleared as a result of extensive work and in an effort to be cooperative by both sides of the aisle, which I appreciate.

I ask unanimous consent that these amendments be approved en bloc. First is amendment No. 159, by Senator OBAMA, regarding Avian Flu; No. 160, by Senator LEAHY, regarding UNICEF; No. 164, by Senators GRASSLEY and KENNEDY, regarding the Family Opportunity Act; No. 194, by Senators HATCH and GRASSLEY, regarding S-CHIP Program; No. 209, by Senators COCHRAN and BYRD, regarding advance appropriation scoring; No. 226, by Senators THOMAS and CONRAD, regarding rural health; No. 180, by Senator MIKULSKI, as modified, regarding HOPE credit; No. 198, by Senators ALLEN, VOINOVICH, DODD, WARNER and DEWINE, a sense of the Senate relative to NASA aeronautics; No. 153, as modified, by Senators DEWINE and DODD, on HIV/AIDS; amendment No. 182, by Senator LOTT, on DDX destroyer.

I send the modifications to the desk on behalf of the Senators, and I ask unanimous consent that those amendments be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 159

(Purpose: To prevent and, if necessary, respond to an international outbreak of the avian flu)

On page 9, line 15, increase the amount by $25,000,000.

On page 9, line 16, increase the amount by $6,000,000.

On page 9, line 20, increase the amount by $11,000,000.

On page 9, line 24, increase the amount by $5,000,000.

On page 10, line 3, increase the amount by $2,000,000.

On page 26, line 14, decrease the amount by $25,000,000.

On page 26, line 15, decrease the amount by $6,000,000.

On page 26, line 18, decrease the amount by $11,000,000.

On page 26, line 21, decrease the amount by $5,000,000.

On page 26, line 24, decrease the amount by $2,000,000.

AMENDMENT NO. 160

(Purpose: To increase funding for UNICEF and other international organizations)

On page 9, line 15, increase the amount by $44,000,000.

On page 9, line 16, increase the amount by $40,000,000.

On page 9, line 20, increase the amount by $3,000,000.

On page 9, line 24, increase the amount by $1,000,000.

On page 26, line 14, decrease the amount by $44,000,000.

On page 26, line 15, decrease the amount by $40,000,000.

On page 26, line 18, decrease the amount by $3,000,000.

On page 26, line 21, decrease the amount by $1,000,000.

AMENDMENT NO. 164

(Purpose: To provide a reserve fund for the Family Opportunity Act)

At the end of title III, add the following:

SEC. _____. DEFICIT-NEUTRAL RESERVE FUND FOR THE FAMILY OPPORTUNITY ACT.

In the Senate, if the Committee on Finance reports a bill or joint resolution or an amendment is offered thereto or a conference report is submitted thereon, that provides families of disabled children with the opportunity to purchase coverage under the medicaid coverage for such children (the Family Opportunity Act), and provided that the committee is within its allocation as provided under section 302(a) of the Congressional Budget Act of 1974, the chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, revenue aggregates, and other appropriate measures to reflect such legislation if any such measure would not increase the deficit for fiscal year 2006 and for the period of fiscal years 2006 through 2010.

AMENDMENT NO. 194

(Purpose: To provide a deficit-neutral reserve fund for the restoration of SCHIP funds)

At the end of title III, add the following:

SEC. _____. DEFICIT-NEUTRAL RESERVE FUND FOR THE RESTORATION OF SCHIP FUNDS.

In the Senate, if the Committee on Finance reports a bill or joint resolution or an amendment is offered thereto or a conference report is submitted thereon, that provides for the restoration of unexpended funds under the State children's health insurance program that reverted to the Treasury on October 1, 2004, and that may provide for the redistribution of such funds for outreach and enrollment as well as for coverage initiatives, the chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, revenue aggregates, and other appropriate measures to reflect such legislation, if such legislation would not increase the deficit for fiscal year 2006 and for the period of fiscal years 2006 through 2010.

AMENDMENT NO. 209

(Purpose: To modify a provision defining advance appropriations subject to limit)

On page 41, line 17, strike ''au-'' and all that follows through ''in'' on line 19, and insert: ''authority in''

AMENDMENT NO. 226

(Purpose: To restore discretionary funding levels for crucial rural health programs, such as the rural health outreach grant program, the rural hospital flexibility grant program, the small hospital improvement program, telehealth, trauma programs, and rural AED programs to fiscal year 2005 levels and offset this change by reductions in overall government travel expenses)

On page 18, line 16, increase the amount by $100,000,000.

On page 18, line 17, increase the amount by $100,000,000.

On page 24, line 16, decrease the amount by $100,000,000.

On page 24, line 17, decrease the amount by $100,000,000.

AMENDMENT NO. 180, AS MODIFIED

(Purpose: To provide a deficit neutral reserve fund for the Hope credit)

On page 40, after line 8 insert the following:

SEC. _____. RESERVE FOR FUNDING OF HOPE CREDIT.

If the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases the Hope credit to $4,000 and makes the credit available for 4 years, the chairman of the Committee on the Budget may revise committee allocations for the Committee on Finance and other appropriate budgetary aggregates and allocations of new budget authority and outlays by the amount provided by that measure for that purpose, if that measure includes offsets including legislation closing corporate tax loopholes and would not increase the deficit for fiscal year 2006 and for the period of fiscal years 2006 though 2010.

AMENDMENT NO. 198

(Purpose: To express the sense of the Senate regarding funding for the National Aeronautics and Space Administration for subsonic and hypersonic aeronautics research)

At the end of title V, add the following:

SEC. 510. SENSE OF THE SENATE REGARDING FUNDING FOR SUBSONIC AND HYPERSONIC AERONAUTICS RESEARCH BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The economic and military security of the United States depends on the continued development of improved aeronautics technologies.

(2) Research and development on many emerging aeronautics technologies is often too expensive or removed in terms of time from commercial application to garner the necessary level of support from the private sector.

(3) The advances made possible by Government-funded research in emerging aeronautics technologies have enabled a longstanding positive balance of trade and air superiority on the battlefield for the United States in recent decades.

(4) The aeronautics industry has grown increasingly mature in recent years, with growth dependent on the availability of the research workforce and facilities provided by the National Aeronautics and Space Administration (NASA).

(5) Recent NASA studies have demonstrated the competitiveness, and scientific merit, and necessity of nearly all existing aeronautics wind tunnel and propulsion testing facilities.

(6) A minimum level of investment by NASA is necessary to maintain these facilities in operational condition and to prevent their financial collapse.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the level of funding provided for the Aeronautics Mission Directorate within the National Aeronautics and Space Administration should be increased by $1,582,700,000 between fiscal year 2006 and fiscal year 2010; and

(2) the increases provided should be applied to the Vehicle Systems portion of the Aeronautics Mission Directorate budget for use in subsonic and hypersonic aeronautical research.

AMENDMENT NO. 153 AS MODIFIED

(Purpose: To express the sense of the Senate concerning the care and treatment of children with HIV/AIDS)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING CHILDREN WITH HIV/AIDS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Approximately 2,200,000 million children under the age of 15 are infected with the HIV virus, and 1,900 children worldwide are infected with HIV each day.

(2) In 2004, it was estimated that of the 4,900,000 people newly infected with HIV, 640,000 were children. The vast majority of them were infected through mother-to-child transmission, which includes transmission at any point during pregnancy, labor, delivery, or breastfeeding.

(3) Effective implementation of prevention of mother-to-child transmission of HIV and care and treatment services in the United States has resulted in the near elimination (less than 2 percent transmission) of mother-to-child transmission of HIV/AIDS. By contrast, in resource-poor settings less than 10 percent of pregnant women living with HIV have access to services to prevent mother-to-child transmission of HIV.

(4) Currently, more than 4,000,000 children worldwide are estimated to have died from AIDS.

(5) In 2004, approximately 510,000 children died of AIDS, resulting in almost 1,400 AIDS deaths in children per day.

(6) According to the Joint United Nations Programme on HIV/AIDS, if current trends continue by 2010, 3,500,000 of the 45,000,000 people infected worldwide will be children under the age of 15.

(7) At least a quarter of newborns infected with HIV die before the age of one, up to 60 percent die before reaching their second birthday, and overall, most die before they are 5 years of age.

(8) HIV threatens to reverse the child survival and developmental gains of past decades.

(9) Research and practice have shown conclusively that timely initiation of antiretroviral therapy to infants or young children with HIV/AIDS can preserve or restore their immune functions, promote normal growth and development, and prolong life.

(10) There is clear evidence in resource-rich countries that antiretroviral treatment in children is very effective. For example, many children who were infected through mother-to-child transmission in the United States are living with HIV as young adults.

(11) Few programs specifically target the treatment of children with HIV/AIDS in resource-poor countries due to significant challenges in diagnosing and treating infants and young children with HIV. Such challenges include difficulty in diagnosing HIV in infants less than 18 months of age, lack of appropriate and affordable pediatric HIV/AIDS medicines, and lack of trained health care providers.

(12) Children are not small adults and treating them as such can seriously jeopardize their health.

(13) Children should not be forgotten in the fight against the global HIV/AIDS pandemic.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this resolution assumes that—

(1)(A) assistance should be provided to support the expansion of programs to prevent mother-to-child transmission of HIV as an integral component of a comprehensive approach to fighting HIV/AIDS;

(B) to facilitate the expansion described in subparagraph (A)—

(i) more resources are needed for infrastructure improvements and education and training of health care workers; and

(ii) better linkages between mother-to-child transmission and broader care and treatment programs should be created for women, children, and families who are in need of access to expanded services;

(2) assistance should be provided to support the care and treatment of children with HIV/AIDS, including the development and purchase of high-quality, Food and Drug Administration-approved pediatric formulations of antiretroviral drugs and other HIV/AIDS medicines, including fixed-dose combinations, pediatric-specific training to doctors and other health-care personnel, and the purchase of pediatric-appropriate technologies;

(3) antiretroviral drugs intended for pediatric use should include age-appropriate dosing information;

(4) health care sites in resource-poor countries need better diagnostic capacity and appropriate supplies to provide care and treatment services for children, and additional training is required to ensure that health care providers can administer specialized care services for children; and

(5) pediatric care and treatment should be integrated into the existing health care framework so children and families can be treated simultaneously.

AMENDMENT NO. 182

(Purpose: Expressing the sense of the Senate on the acquisition of the next generation destroyer (DDX))

At the end, add the following:

SEC. 510. SENSE OF THE SENATE REGARDING THE ACQUISITION OF THE NEXT GENERATION DESTROYER (DDX).

(a) FINDINGS.—The Senate makes the following findings:

(1) The Quadrennial Defense Review to be conducted in 2005 has not been completed.

(2) The national security of the United States is best served by a competitive industrial base consisting of at least two shipyards capable of constructing major surface combatants.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is ill-advised for the Department of Defense to pursue a winner-take-all strategy for the acquisition of destroyers under the next generation destroyer (DDX) program; and

(2) the amounts identified in this resolution assume that the Department of Defense will not acquire any destroyer under the next generation destroyer program through a winner-take-all strategy.

(c) WINNER-TAKE-ALL STRATEGY DEFINED.—In this section, the term ''winner-take-all strategy'', with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

AMENDMENT NO. 180

Ms. MIKULSKI. Mr. President, this amendment would increase the Hope credit to $4,000 and make it available for 4 years of college. The core of the American Dream is getting a college education and I want to make sure that every student has access to that dream. I want to help families who are trying to send their children to college and adults who are going back to school for their first degree or their third.

Our middle-class families are stressed and stretched. Families in my state of Maryland are worried—they're worried about their jobs and they're terrified of losing their healthcare when costs keep ballooning. Many are holding down more than one job to make ends meet. They're racing from carpools to work and back again. But most of all, they don't know how they can afford to send their kids to college. And they want to know what we in the United States Senate are doing to help them.

That's why I want to give every family sending a child to college a $4,000 tuition tax credit. This amendment would give help to those who practice self help—the families who are working and saving to send their child to college or update their own skills.

College tuition is on the rise across America. Tuition at the University of Maryland has increased by almost 40 percent since 2002. Tuition for Baltimore Community College rose by $300 in one year. The average total cost of going to a 4-year public college is $10,635 per year, including tuition, fees, room and board. University of Maryland will cost more than $15,000 for a full time undergraduate student who lives on campus.

Financial Aid isn't keeping up with these rising costs. Pell Grants cover only 40 percent of average costs at 4-year public colleges. Twenty years ago, Pell Grants covered 80 percent of average costs. Our students are graduating with so much debt it's like their first mortgage. The average undergraduate student debt from college loans is almost $19,000. College is part of the American Dream; it shouldn't be part of the American financial nightmare.

Families are looking for help. I'm sad to say, the President doesn't offer them much hope. The Republican budget has all the wrong priorities. President Bush proposed increasing the maximum Pell Grant by just $100 to $4,150. I want to double Pell Grants. Instead of easing the burden on middle class families, the Republican budget helps out big business cronies with lavish tax breaks while eating into Social Security and creating deficits as far as the eye can see.

We need to do more to help middle-class families afford college. We need to immediately increase the maximum Pell Grant to $4,500 and double it over the next 6 years. We need to make sure student loans are affordable. And we need a bigger tuition tax credit for the families stuck in the middle who aren't eligible for Pell Grants but still can't afford college.

A $4,000 tax credit for tuition will go a long way. It will give middle class families some relief by helping the first-time student at our 4-year institutions like University of Maryland and the midcareer student at our terrific community colleges. A $4,000 tax credit would be 60 percent of the tuition at Maryland and enough to cover the cost of tuition at most community colleges. My amendment would help make college affordable for everyone.

College education is more important than ever: 40 percent of new jobs in the

next 10 years will require post-secondary education. College is important to families and it's important to our economy. To compete in the global economy, we need to make sure all our children have 21st century skills for 21st century jobs. And the benefits of education help not just the individual but society as a whole.

To have a safer America and a stronger economy, we need to have a smarter America. We need to invest in our human capital to create a world class workforce. That means making a college education affordable.

Mr. GREGG. Mr. President, there is a genuine effort going forward to reduce the number of amendments pending before the body. We still have an incredible number of amendments out there—somewhere in the vicinity of 30, at the minimum. At the rate we are going, that is about 8 to 9 hours of voting. It would be helpful if folks would sit down with the leadership on both sides, if they have amendments, and try to determine ways to deal with those and determine if it is necessary to go forward with them, or maybe we can do them in a more expeditious way than to formally vote on them. I hope we can get that sort of assistance.

Mr. CONRAD. Mr. President, just to report to the colleagues, we have five more amendments in this queue. We have five amendments that we are working to try to get approved. We have 23 amendments beyond that.

I make an appeal. There are a number of Senators with multiple amendments. We have 8 Senators that, among them, have 20 amendments. I appeal to those Senators, please work with leadership to try to reduce those amendments. We are working diligently to get, as we have just seen described by the chairman, a series of amendments approved. Let's work and make modifications where necessary, where we can get others handled in that way. If we don't do this, we are going to be here at 3:30 tomorrow morning. So please, let's get these amendments worked out. These are 5-minute votes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 225

Mr. TALENT. Mr. President, I call up my amendment No. 225.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri, [Mr. TALENT], for himself, Mr. THUNE, Ms. STABENOW, and Mr. WYDEN, proposes an amendment numbered 225.

The amendment is as follows:

(Purpose: To provide the flexibility to consider all available transportation funding options)

On page 39, lines 8 and 9 strike ''net new user-fee receipts related to the purposes of'' and insert ''receipts to''.

Mr. TALENT. Mr. President, I will just take 30 seconds.

This amendment is endorsed by all the major transportation groups. The budget resolution restricts the transportation funding available to the Finance Committee. Our amendment changes the language to be consistent with past conference reports and budget resolutions. It ensures that transportation funding options are on the table when we consider the highway bill. It doesn't affect the budget neutrality.

Mr. GREGG. Mr. President, this takes the fund, the purpose of which is to allow the Senate to spend more than the $284 billion but requires that that be genuinely paid for, and turns it into a reserve fund. The pay-fors will become not necessarily illusory but close to that. I don't think it is good policy to do that. I would rather we had a strong statement that if we are going to go over the $284 billion, it is really going to be paid for.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—81

Akaka	DeWine	Mikulski
Allen	Dodd	Murkowski
Baucus	Dole	Murray
Bayh	Dorgan	Nelson (FL)
Bennett	Durbin	Nelson (NE)
Biden	Feingold	Obama
Bingaman	Feinstein	Pryor
Bond	Grassley	Reed
Boxer	Harkin	Reid
Brownback	Hatch	Roberts
Bunning	Hutchison	Rockefeller
Burns	Inhofe	Salazar
Byrd	Inouye	Santorum
Cantwell	Isakson	Sarbanes
Carper	Jeffords	Schumer
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Landrieu	Stabenow
Collins	Lautenberg	Talent
Conrad	Leahy	Thomas
Cornyn	Levin	Thune
Corzine	Lieberman	Vitter
Craig	Lincoln	Voinovich
Crapo	Lott	Warner
Dayton	Martinez	Wyden

NAYS—19

Alexander	Enzi	McCain
Allard	Frist	McConnell
Burr	Graham	Sessions
Coburn	Gregg	Stevens
DeMint	Hagel	Sununu
Domenici	Kyl	
Ensign	Lugar	

The amendment (No. 225) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 243

The PRESIDING OFFICER. The question is on the Conrad amendment No. 243. There is 1 minute equally divided.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, this amendment says simply that we ought to repeal the tax that applies to Social Security benefits; that we should do it in a way that does not cut Medicare funding and that does not further increase deficits and debt.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, this is a sense-of-the-Senate amendment. It has no meaning at all, and it is not paid for by any method, so it means nothing. The senior citizen is still stuck with the additional 35-percent tax on their benefits on Social Security.

I urge a ''no'' vote.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, 30 seconds off my leader time. This amendment is fully paid for, and it has exactly the same force and effect of law, as does the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 243.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—94

Akaka	Dole	McConnell
Alexander	Domenici	Mikulski
Allen	Dorgan	Murkowski
Baucus	Durbin	Murray
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Biden	Feingold	Obama
Bingaman	Feinstein	Pryor
Bond	Frist	Reed
Boxer	Graham	Reid
Brownback	Grassley	Roberts
Burns	Gregg	Rockefeller
Burr	Harkin	Salazar
Byrd	Hatch	Santorum
Cantwell	Hutchison	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Sessions
Chambliss	Isakson	Shelby
Clinton	Jeffords	Smith
Coburn	Johnson	Snowe
Cochran	Kennedy	Specter
Coleman	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Landrieu	Sununu
Cornyn	Lautenberg	Talent
Corzine	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Warner
DeMint	Lott	Wyden
DeWine	Martinez	
Dodd	McCain	

NAYS—6

Allard	Hagel	Lugar
Bunning	Kyl	Voinovich

The amendment (No. 243) was agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 241

The PRESIDING OFFICER. The question now is on amendment No. 241.

The Senator from Kentucky.

Mr. BUNNING. For my 94 colleagues who just voted for that sense-of-the-Senate amendment, they now have a chance to vote for the real thing that actually pays for it. We put instructions in our resolution to the Finance Committee to actually set aside money to pay for this. The amendment my colleagues voted for last time made them feel good, but it did not do anything for our senior citizens and reduce the tax of 35 percent on the Social Security income they get. This is a chance to do just that. I urge a ''yes'' vote.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let us be clear, the Bunning amendment doubles the tax cut, undermines funding for Medicare, and provides absolutely no assurance that the additional tax cut will be used to eliminate the tax on Social Security benefits.

So let's be clear. It doubles the tax cut. It undermines funding for Medicare. It provides no assurance that the money would be used to reduce the tax on Social Security benefits.

The PRESIDING OFFICER. All time has expired.

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 241.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—55

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Bond	Frist	Roberts
Brownback	Graham	Salazar
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Burr	Hagel	Shelby
Byrd	Hatch	Smith
Chambliss	Hutchison	Specter
Coburn	Inhofe	Sununu
Cochran	Isakson	Talent
Coleman	Kyl	Thomas
Collins	Landrieu	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

NAYS—45

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Obama
Bingaman	Harkin	Pryor
Boxer	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Lautenberg	Stabenow
Dayton	Leahy	Stevens
Dodd	Levin	Voinovich
Domenici	Lieberman	Wyden

The amendment (No. 241) was agreed to.

Mr. GREGG. Mr. President, can we get order so we can discuss where we are? We still have a lot of amendments pending and we are going to be here well into tomorrow morning at this rate. It would be very helpful if Members would come forward and agree to either adjust their amendment so they didn't have to have it heard tonight or reach an agreement where we did not have to vote on it. Otherwise, we are heading for the wee hours of tomorrow morning. I know Senator CONRAD had some thoughts on how we might address this.

Mr. CONRAD. Mr. President, there has been excellent cooperation. I thank our colleagues. We have removed at least 80 amendments. But here is where we stand at the moment. We still have 24 or 25 amendments. We need to take a break because we need to have the desk crew take a break. They have worked nonstop. We are going to need to take about a 30-minute break. But to be able to do that and not wind up right back at 3 a.m., because we have made some progress now, we are headed for about 1:45 right now if all the amendments are voted on that are in queue, we have to ask colleagues to please let us know if you can accept a vote on your amendment on a later vehicle. That is the only way we are going to avoid it.

You can do the math yourself: 25 votes, 4 an hour, 6 more hours—that is right back at 2 o'clock in the morning.

So, please, during these next two votes, those who have amendments that do not have to be on this vehicle, come to us and let's see if we cannot work something out.

Senator CLINTON is next up.

AMENDMENT NO. 244, AS MODIFIED

The PRESIDING OFFICER. The Senator from New York is recognized on amendment 244.

Mrs. CLINTON. Mr. President, I send a modified version of the amendment to the desk, and ask unanimous consent that it be considered.

The PRESIDING OFFICER. Is there objection? The amendment is modified.

The amendment, (No. 244) as modified, is as follows:

On page 3, line 10, increase the amount by $36,000,000.

On page 3, line 11, increase the amount by $54,000,000.

On page 3, line 12, increase the amount by $7,000,000.

On page 3, line 13, increase the amount by $2,000,000.

On page 3, line 19, increase the amount by $36,000,000.

On page 3, line 20, increase the amount by $54,000,000.

On page 3, line 21, increase the amount by $7,000,000.

On page 4, line 1, increase the amount by $2,000,000.

On page 4, line 7, increase the amount by $100,000,000.

On page 4, line 16, increase the amount by $36,000,000.

On page 4, line 17, increase the amount by $54,000,000.

On page 4, line 18, increase the amount by $7,000,000.

On page 4, line 19, increase the amount by $2,000,000.

On page 18, line 21, increase the amount by $54,000,000.

On page 18, line 25, increase the amount by $7,000,000.

On page 18, line 16, increase the amount by $100,000,000.

On page 18, line 17, increase the amount by $36,000,000.

On page 19, line 4, increase the amount by $2,000,000.

On page 30, line 16, decrease the amount by $36,000,000.

On page 30, line 17, decrease the amount by $54,000,000.

On page 48, line 6, increase the amount by $100,000,000.

On page 48, line 7, increase the amount by $36,000,000.

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING PREVENTIVE HEALTH CARE SERVICES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Although the Centers for Disease Control and Prevention included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(2) Increasing access to family planning services will improve women's health and reduce the rates of unintended pregnancy, abortion, and infection with sexually transmitted infections.

(3) Contraceptive use saves public health dollars. Every dollar spent on providing family planning services saves an estimated $3 in expenditures for pregnancy-related and newborn care for Medicaid alone.

(4) Each year, 3,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(5) In 2002, 34,000,000 women--half of all women of reproductive age were in need of contraceptive services and supplies to help prevent unintended pregnancy, and half of those were in need of public support for such care.

(6) The United States also has the highest rate of infection with sexually transmitted infections of any industrialized country. In 2003 there were approximately 19,000,000 new cases of sexually transmitted infections. According to the Centers for Disease Control and Prevention (November 2004), these sexually transmitted infections impose a tremendous economic burden with direct medical costs as high as $15,500,000,000 per year.

(7) The child born from an unintended pregnancy is at greater risk of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(8) Each year, services under title X of the Public Health Service Act enable Americans to prevent approximately 1,000,000 unintended pregnancies, and one in three women of reproductive age who obtains testing or treatment for sexually transmitted infections does so at a title X-funded clinic. In 2003, title X-funded clinics provided 2,800,000 Pap tests, 5,100,000 sexually transmitted infection tests, and 526,000 HIV tests.

(9) The increasing number of uninsured individuals, stagnant funding, health care inflation, new and expensive contraceptive technologies, and improved but expensive screening and treatment for cervical cancer and sexually transmitted infections, have diminished the ability of clinics funded under title X of the Public Health Service Act to adequately serve all those in need. Taking

medical inflation into account, funding for the program under such title X declined by 59 percent between 1980 and 2004.

(10) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. Half of the 45,000,000 women of reproductive age currently live in the 29 States without contraceptive coverage policies. These women may still find the most effective forms of contraceptives beyond their financial reach due to a lack of coverage.

(11) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(12) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. It is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion. New research confirms that easier access to emergency contraceptives does not increase sexual risk-taking or sexually transmitted infections.

(13) In 2000, 51,000 abortions were prevented by the use of emergency contraception. Increased use of emergency contraception accounted for up to 43 percent of the total decline in abortions between 1994 and 2000.

(14) Thirteen percent of all teens give birth before age 20. Eighty-eight percent of births to teens age 17 or younger were unintended. Twenty-four percent of Hispanic females gave birth before the age of 20. (Centers for Disease Control and Prevention, December 2004).

(15) Children born to teen moms begin life with the odds against them. They are less likely to be ready for kindergarten, more likely to be of low-birth weight, 50 percent more likely to repeat a grade, more likely to live in poverty, and significantly more likely to be victims of abuse and neglect.

(16) Research shows that a range of initiatives, including sex education, youth development and service learning programs, can encourage teens to behave responsibly by delaying sexual activity and pregnancy. Federal tax dollars are best invested in programs with research-based evidence of success.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this resolution assumes that—

(1) $100,000,000 of the amount provided for under function category 550 (health) for fiscal year 2006 may be used for any or all of the following—

(A) to fund increases in amounts appropriated to carry out title X of the Public Health Service Act (42 U.S.C. 300 et seq.) above amounts appropriated for fiscal year 2005;

(B) to fund legislation that would require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans;

(C) to fund legislation that would create a public education program administered through the Centers for Disease Control and Prevention concerning the use, safety, efficacy, and availability of emergency contraception that is—

(i) approved by the Food and Drug administration to prevent pregnancy; and

(ii) used post-coitally; or

(D) to fund legislation that would permit the Secretary of Health and Human Services to award, on a competitive basis, grants to public and private entities to establish or expand teenage pregnancy prevention programs or to disseminate information to educators and parents about the most effective strategies for preventing teen pregnancy (funds made available under the authority of this subparagraph are not intended for use by abstinence-only education programs);

(2) the prevention programs described in paragraph (1) are cost effective and will achieve savings by—

(A) reducing the number of unintended pregnancies;

(B) reducing the rate of sexually transmitted infections;

(C) reducing the costs to the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(D) providing for the early detection of HIV and early detection of breast and cervical cancer; and

(3) the increase in funding described in paragraph (1) is offset by an increase in revenues of not to exceed $200,000,000 to be derived from closing corporate tax loopholes, of which the remaining $100,000,000 (after amounts are expended pursuant to this section) should be used for deficit reduction.

Mrs. CLINTON. Mr. President, this is the Clinton-Reid prevention first amendment. What it does is try to put us on record and provide funding for the important goal of preventing unintended pregnancies and abortions. What this amendment does is to increase public health funding for the National Family Planning Program and enact the EPIC bill which says to insurance companies, if you are going to provide insurance coverage for Viagra you should provide insurance coverage for contraception. It increases funding to improve awareness and education about emergency contraception, which is a prevention program, not termination, and finally funds a new teen prevention program.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment increases taxes by $200 million and raises spending by $200 million and would prevent abstinence-only programs from receiving funds under it. It would also create a mandated insurance coverage which will increase the cost of insurance and create more uninsured individuals today, so I recommend a vote against it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—47

Akaka	Carper	Dorgan
Baucus	Chafee	Durbin
Bayh	Clinton	Feingold
Biden	Collins	Feinstein
Bingaman	Conrad	Harkin
Boxer	Corzine	Inouye
Byrd	Dayton	Jeffords
Cantwell	Dodd	Johnson
Kennedy	Lincoln	Rockefeller
Kerry	Mikulski	Salazar
Kohl	Murray	Sarbanes
Landrieu	Nelson (FL)	Schumer
Lautenberg	Obama	Snowe
Leahy	Pryor	Stabenow
Levin	Reed	Wyden
Lieberman	Reid	

NAYS—53

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner
DeWine	McCain	

The amendment (No. 244) as modified, was rejected.

AMENDMENT NO. 187

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I believe my amendment is next in order. I would like to be able to confirm that.

The PRESIDING OFFICER. The amendment of the Senator from New Jersey is at the desk.

Mr. LAUTENBERG. Mr. President, in the last 4 years we have raised the Nation's debt limit three times, from less than $6 trillion to more than $8 trillion. Now we are being asked to add $446 billion of new debt, $1,500 for every man, woman, and child, without debate. My amendment says we ought to have a debate and answer the question after we have discussed it. The issue ought to be debated. Nothing poses a greater threat to our future security. The President said he doesn't think it is right to avoid facing up to tough issues that our children will have to deal with in the future. Let us face up to our responsibilities.

Mr. GREGG. Mr. President, for the edification of our colleagues, after this vote is completed, we will take a half hour recess to give the staff a rest for a little bit. Then we will be back and voting, I presume, sometime around quarter of 8.

The use of reconciliation on the debt ceiling is a very common procedure. Our colleagues across the aisle, when they were in the majority, used it a number of times. It is an option that should be made available. We have to pay our debt and, therefore, we have to raise that debt ceiling. This is a very typical and appropriate way to handle the debt ceiling should the Finance Committee choose to pursue it. We are just giving them this tool and this option.

The PRESIDING OFFICER. The yeas and nays have been ordered on this amendment.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—45

Akaka	Durbin	Lincoln
Baucus	Feingold	McCain
Bayh	Feinstein	Mikulski
Biden	Harkin	Murray
Bingaman	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

NAYS—54

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chafee	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

NOT VOTING—1

Chambliss

The amendment (No. 187) was rejected.

RECESS

Mr. GREGG. Mr. President, it is now our plan to recess until 7:45, at which time we will vote on the Boxer amendment. That is what we will vote on at 7:45. It will be a 10-minute vote and we will hold that 10-minute vote. In other words, there will not be any effort to go past 10 minutes. We will close it out after 10 minutes.

I ask unanimous consent that we recess until 7:45 and at 7:45 we shall vote on the Boxer amendment which has been submitted to both sides.

There being no objection, the Senate, at 7:15 p.m., recessed until 7:45 p.m., and reassembled when called to order by the Presiding Officer (Mr. BURR).

AMENDMENT NO. 257

Mr. GREGG. Is the amendment at the desk?

Mrs. BOXER. Yes. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 257.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish a point of order in the Senate against any appropriations bill if it allows funds to be provided for prepackaged news stories that do not have a disclaimer that continuously runs through the presentation which says, ''Paid for by the United States Government.'')

At the appropriate place, insert the following:

SEC. ___. POINT OF ORDER.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any appropriations bill if it allows funds to be provided for prepackaged news stories that do not have a disclaimer that continuously runs through the presentation which says, ''Paid for by the United States Government.''.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of 3/5 of the Members, duly chosen and sworn. An affirmative vote of 3/5 of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

Mrs. BOXER. Mr. President, the Comptroller General of GAO tells us that prepackaged news that is put together by Federal agencies is unacceptable and that—I am quoting them—''Americans deserve to know when their Government is spending taxpayer money to try to influence them.''

My amendment simply encourages agencies to add a disclaimer to those prepackaged news stories that says ''Paid for by the United States Government.''

This is very important for the taxpayers to know it is their money that is being spent. I hope and I wish the other side would agree to this amendment. If not, I guess we will have to have a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment creates a point of order on language which probably is not able to be given a conciseness that would make it effective. What does ''prepackaging'' mean? It would be virtually impossible to exercise this point of order, and I think it would set a bad precedent for the Senate to create such a point of order.

I oppose the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. GREGG. This will be a 10-minute vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Montana (Mr. BURNS).

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—44

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Nelson (NE)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Byrd	Kennedy	Reed
Cantwell	Kerry	Reid
Carper	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—54

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

NOT VOTING—2

Burns Clinton

The amendment (No. 257) was rejected.

AMENDMENT NO. 259

Mr. GREGG. Mr. President, I yield a minute to the Senator from California to make a comment on her amendment.

Mrs. BOXER. Mr. President, I thank Senators Gregg, Conrad, Stevens, and Sununu. We are all working together to make sure that our oceans can finally get the attention they deserve. We have a new commission on oceans. Admiral Watkins is working hard on that commission. What we are doing, which has been agreed to on all sides, is simply saying we need to enact a comprehensive, coordinated, integrated national ocean policy that will ensure the long-term economic and ecological health of the U.S. oceans, coasts, and lakes.

I think it is wonderful that we can come together on this, and on the Commerce Committee we will be working to make sure this happens.

I thank the Chair.

Mr. GREGG. I thank the Senator.

Mrs. BOXER. I ask that this amendment be adopted.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 259) was agreed to, as follows:

(Purpose: To express the sense of the Senate regarding the need for a comprehensive, coordinated, and integrated national ocean policy)

On page 65, after line 25, insert the following:

SEC. 510. SENSE OF THE SENATE REGARDING THE NEED FOR A COMPREHENSIVE, COORDINATED, AND INTEGRATED NATIONAL OCEAN POLICY.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States Commission on Ocean Policy and the Pew Ocean Commission have each completed and published independent findings on the state of the United States oceans, coasts, and Great Lakes.

(2) The findings made by the Commissions include the following:

(A) The United States oceans, coasts, and Great Lakes are a vital component of the economy of the United States.

(B) The resources and ecosystems associated with the United States oceans, coasts, and Great Lakes are in trouble.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and the Congress should—

(1) expeditiously consider the recommendations of the United States Commission on Ocean Policy during the 109th Congress; and

(2) enact a comprehensive, coordinated, and integrated national ocean policy that will ensure the long-term economic and ecological health of the United States oceans, coasts, and Great Lakes.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, we just had a good example, one amendment cleared and one dropped. We need to do more of that. We have 20 amendments left here, 7 on the other side; that is 27. We have a lot of work to do. We need Senators to be willing to give up some of these amendments. They can offer them at a later time. I ask my colleagues to consider that.

I thank the Senator from California.

AMENDMENT NO. 211

Mr. GREGG. Mr. President, the next item will be a 5-minute vote, with 1 minute to speak about it. It is Senator DORGAN's amendment.

Mr. DORGAN. Mr. President, this is amendment No. 211. This amendment adds back $1 billion to the Indian accounts. We all know we have a bona fide crisis in health care, housing, and education on Indian reservations in this country. Many of those appropriations have been cut. This amendment restores some of that cut. It is $1 billion, which would be paid for by closing a tax loophole.

Mr. GREGG. Mr. President, this amendment would raise taxes by $3.25 billion. It is a tax-and-spend amendment. There is absolutely no assurance that any of these funds would go as represented on the amendment. That would be a decision made by the proper authorizing or appropriating committee.

Mr. DORGAN. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Ms. CANTWELL, and Mrs. MURRAY, proposes an amendment numbered 211.

The amendment is as follows:

(Purpose: To restore funding for tribal programs and provide necessary additional funding based on recommendations from Indian country and to reduce the deficit.)

On page 3 line 10, increase the amount by $500,000,000.

On page 3 line 11, increase the amount by $600,000,000.

On page 3 line 12, increase the amount by $700,000,000.

On page 3 line 13, increase the amount by $700,000,000.

On page 3 line 14, increase the amount by $700,000,000.

On page 3 line 19, increase the amount by $500,000,000.

On page 3 line 20, increase the amount by $600,000,000.

On page 3 line 21, increase the amount by $700,000,000.

On page 4 line 1, increase the amount by $700,000,000.

On page 4 line 2, increase the amount by $700,000,000.

On page 4 line 7, increase the amount by $1,000,000,000.

On page 4 line 16, increase the amount by $589,000,000.

On page 4 line 17, increase the amount by $195,000,000.

On page 4 line 18, increase the amount by $87,000,000.

On page 4 line 19, increase the amount by $66,000,000.

On page 4 line 20, increase the amount by $38,000,000.

On page 4 line 24, decrease the amount by $89,000,000.

On page 4 line 25, increase the amount by $405,000,000.

On page 5 line 1, increase the amount by $613,000,000.

On page 5 line 2, increase the amount by $634,000,000.

On page 5 line 3, increase the amount by $662,000,000.

On page 5 line 7, increase the amount by $89,000,000.

On page 5 line 8, decrease the amount by $316,000,000.

On page 5 line 9, decrease the amount by $929,000,000.

On page 5 line 10, decrease the amount by $1,563,000,000.

On page 5 line 11, decrease the amount by $2,225,000,000.

On page 5 line 15, increase the amount by $89,000,000.

On page 5 line 16, decrease the amount by $316,000,000.

On page 5 line 17, decrease the amount by $929,000,000.

On page 5 line 18, decrease the amount by $1,563,000,000.

On page 5 line 19, decrease the amount by $2,225,000,000.

On page 12 line 15, increase the amount by $135,000,000.

On page 12 line 16, increase the amount by $7,000,000.

On page 12 line 20, increase the amount by $20,000,000.

On page 12 line 24, increase the amount by $41,000,000.

On page 13 line 3, increase the amount by $41,000,000.

On page 13 line 7, increase the amount by $20,000,000.

On page 16 line 15, increase the amount by $330,000,000.

On page 16 line 16, increase the amount by $222,000,000.

On page 16 line 20, increase the amount by $80,000,000.

On page 16 line 24, increase the amount by $14,000,000.

On page 17 line 3, increase the amount by $4,000,000.

On page 17 line 7, increase the amount by $1,000,000.

On page 17 line 16, increase the amount by $80,000,000.

On page 17 line 17, increase the amount by $37,000,000.

On page 17 line 21, increase the amount by $34,000,000.

On page 17 line 25, increase the amount by $6,000,000.

On page 18 line 4, increase the amount by $2,000,000.

On page 18 line 16, increase the amount by $300,000,000.

On page 18 line 17, increase the amount by $270,000,000.

On page 18 line 21, increase the amount by $27,000,000.

On page 18 line 25, increase the amount by $3,000,000.

On page 20 line 16, increase the amount by $130,000,000.

On page 20 line 17, increase the amount by $47,000,000.

On page 20 line 21, increase the amount by $26,000,000.

On page 20 line 25, increase the amount by $18,000,000

On page 21 line 4, increase the amount by $15,000,000.

On page 21 line 8, increase the amount by $14,000,000.

On page 23 line 16, increase the amount by $25,000,000.

On page 23 line 17, increase the amount by $6,000,000.

On page 23 line 21, increase the amount by $8,000,000.

On page 23 line 25, increase the amount by $5,000,000.

On page 24 line 4, increase the amount by $4,000,000.

On page 24 line 8, increase the amount by $3,000,000.

On page 30 line 16, decrease the amount by $500,000,000.

On page 30 line 17, decrease the amount by $3,200,000,000.

On page 48 line 6, increase the amount by $1,000,000,000.

On page 48 line 7, increase the amount by $589,000,000.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—45

Akaka	Durbin	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Rockefeller
Conrad	Landrieu	Salazar
Corzine	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

NAYS—55

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Roberts
Bennett	Ensign	Santorum
Bond	Enzi	Sessions
Brownback	Frist	Shelby
Bunning	Graham	Smith
Burns	Grassley	Snowe
Burr	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Inhofe	Thomas
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

The amendment (No. 211) was rejected.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the next amendment will be from the Senator from Wisconsin for 30 seconds.

AMENDMENT NO. 258

Mr. FEINGOLD. I call up amendment No. 258.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. BINGAMAN, proposes an amendment numbered 258.

The amendment is as follows:

(Purpose: To ensure that savings associated with legislation that reduces overpayments to Medicare Advantage plans is reserved for deficit reduction and to strengthen the Federal Hospital Insurance Trust Fund)

On page 40, after line 8, insert the following:

SEC. ___. RESERVE FUND FOR DEFICIT REDUCTION AND TO STRENGTHEN THE PART A TRUST FUND.

The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, functional totals, and other appropriate levels and limits in this resolution upon enactment of legislation that achieves savings under the medicare program under title XVIII of the Social Security Act by reducing overpayments to Medicare Advantage plans (such as legislation that requires the full amount of savings from the implementation of risk adjusted payments to Medicare Advantage plans to accrue to the medicare program, that eliminates the plan stabilization fund under section 1858(e) of such Act, and that adjusts the MA area-specific nondrug monthly benchmark amount under part C of such title to exclude payments for the indirect costs of medical education under section 1886(d)(5)(B) of such Act), by the amount of savings in that legislation, to ensure that those savings are reserved for deficit reduction and to strengthen the Federal Hospital Insurance Trust Fund.

Mr. FEINGOLD. Mr. President, in deference to the request of our two floor leaders, I will not ask for a rollcall vote, but I do hope my colleagues will voice their support for this amendment.

This is real deficit reduction. The other side keeps asking us to cut spending. This amendment does just that. This amendment cuts over $20 billion from the Medicare Program and unnecessary overpayments to private Medicare plans.

We have a simple choice: subsidize private health insurance companies or reduce the deficit. The private Medicare plans are successful in bringing costs down and if the senior supposedly wants to choose private plans, then why should American taxpayers pay private companies more money than traditional Medicare?

We heard a lot of talk from the other side about the need to cut spending. This amendment is a fiscally responsible effort to bring down the deficit. I urge my colleagues' support.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, it is amazing to me that this is the second time tonight that we have had people who are standing around wanting to change the Medicare Modernization Act, and it does not even go into effect until the 2006. We do not even know that all this money my colleague wants to save will ever be spent in the first place, and if it is spent, it is to bring the plans to rural Wisconsin so that his folks in rural Wisconsin can have the same benefits as people in Florida or Los Angeles. It was a major compromise of this bill. We ought to preserve that compromise because it is for rural America.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. I suggest a voice vote on this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin already suggested a voice vote. The question is on agreeing to amendment No. 258.

The amendment (No. 258) was rejected.

Mr. GREGG. Mr. President, the next amendment is an amendment from the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 203

Mr. LEAHY. Mr. President, I am offering a sense-of-the-Senate amendment intended to head off the administration's plans to raid the Crime Victims Fund of more than $1.2 billion. I am joined by Senators KENNEDY, MIKULSKI, FEINGOLD, BIDEN, DURBIN, OBAMA, and DODD on this amendment.

We created this fund under the Victims Crime Act of 1984 to be used for the victims of crime. We made a solemn promise these funds would be there. The budget resolution rescinds all amounts remaining in the fund. It is wrong. We should not be saying your suffering—even though we promised with great fanfare, the President and everybody else promised that your suffering is going to be our concern. We should not say it is no longer that way.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I suspect under the rules adopted earlier this evening, with the way things are going to be accounted for in the Appropriations Committee, the point of this amendment will be moot.

I suggest a voice vote.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. FEINGOLD, Mr. DURBIN, Mr. BIDEN, and Mr. OBAMA, proposes an amendment numbered 203.

The amendment is as follows:

(Purpose: To express the sense of the Senate in support of full funding and availability of the Crime Victims Fund)

At the end of title V, insert the following:

SEC. ___. SENSE OF THE SENATE ON THE CRIME VICTIMS FUND.

(a) FINDINGS.—The Senate finds the following:—

(1) The Victims of Crime Act of 1984 (''VOCA'') was enacted to provide Federal financial support for services to victims of all types of crime, primarily through grants to state crime victim compensation and victim assistance programs.

(2) VOCA created the Crime Victims Fund (''the Fund'') as a separate account into which are deposited monies collected from persons convicted of Federal criminal offenses, including criminal fines, forfeitures and special assessments. There are no general taxpayer generated revenues deposited into the Fund.

(3) Each fiscal year, the Fund is used to support—

(A) Children's Justice Act grants to States to improve the investigation and prosecution of child abuse cases;

(B) victim witness coordinators in United States Attorney's Offices;

(C) victim assistance specialists in Federal Bureau of Investigation field offices;

(D) discretionary grants by the Office for Victims of Crime to provide training and technical assistance and services to victims of Federal crimes;

(E) formula grants to States to supplement State crime victim compensation programs, which reimburse more than 150,000 violent crime victims annually for out-of-pocket expenses, including medical expenses, mental health counseling, lost wages, loss of support and funeral costs;

(F) formula grants to States for financial assistance to upwards of 4,400 programs providing direct victim assistance services to nearly 4,000,000 victims of all types of crimes annually, with priority for programs serving victims of domestic violence, sexual assault and child abuse, and previously underserved victims of violent crime; and

(G) the Antiterrorism Emergency Reserve, to assist victims of domestic and international terrorism.

(4) Just 4 months ago, a strong bipartisan, bicameral majority in Congress affirmed its support for the Crime Victims Fund and increased its commitment to crime victims in the Justice for All Act of 2004 (Public Law 108–405), which establishes Federal crime victims rights and authorized 2 new VOCA-funded victim programs.

(5) Before fiscal year 2000, all amounts deposited into the Crime Victims Fund in each fiscal year were made available for authorized programs in the subsequent fiscal year.

(6) Beginning in fiscal year 2000, Congress responded to large fluctuations of deposits into the Fund by delaying obligations from the Fund above certain amount, as follows:

(A) For fiscal year 2000, $500,000,000.

(B) For fiscal year 2001, $537,500,000.

(C) For fiscal year 2002, $550,000,000.

(D) For fiscal year 2003, $600,000,000.

(E) For fiscal year 2004, $625,000,000.

(F) For fiscal year 2005, $625,000,000.

(7) In the conference report on an omnibus spending bill for fiscal year 2000 (Public Law

106–113), Congress explained that the reason for delaying annual Fund obligations was ''to protect against wide fluctuations in receipts into the Fund, and to ensure that a stable level of funding will remain available for these programs in future years''.

(8) VOCA mandates that ''. . . all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation''.

(9) For fiscal year 2006, the President is recommending ''rescission'' of $1,267,000,000 from amounts in the Fund.

(10) The rescission proposed by the President would result in no funds being available to support crime victim services at the start of fiscal year 2007. Further, such rescission would make the Fund vulnerable to fluctuations in receipts into the Fund, and would not ensure that a stable level of funding will remain available for vital programs in future years.

(11) Retention of all amounts deposited into the Fund for the immediate and future use of crime victim services as authorized by VOCA is supported by many major national victim service organizations, including—

(A) Justice Solutions, NPO;

(B) National Organization for Victim Assistance;

(C) National Alliance to End Sexual Violence;

(D) National Children's Alliance;

(E) National Association of VOCA Assistance Administrators;

(F) National Association of Crime Victim Compensation Boards;

(G) Mothers Against Drunk Driving;

(H) National Center for Victims of Crime;

(I) National Organization for Parents of Murdered Children;

(J) National Coalition Against Domestic Violence;

(K) Pennsylvania Coalition Against Rape; and

(L) National Network to End Domestic Violence.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the funding levels in this resolution assume that all amounts that have been and will be deposited into the Crime Victims Fund, including amounts deposited in fiscal year 2006 and thereafter, shall remain in the Fund for use as authorized under the Victims of Crime Act of 1984.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 203.

The amendment (No. 203) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, the next amendment will be offered by the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 169

Mr. SANTORUM. Mr. President, this is one of the most important things we can do to meet the pandemic afflicting Africa right now. The President came up with a great number for bilateral aid. We are still a little short on the global fund. This is to add half a billion dollars to the global fund to make sure we can meet our commitment to provide drugs and services to this pandemic.

I yield the remainder of my time to the Senator from Illinois.

Mr. DURBIN. Mr. President, I am happy to join the Senator from Pennsylvania in a bipartisan effort to attack the deadliest epidemic in modern times. I encourage my colleagues to support this amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. DURBIN, Mr. BINGAMAN, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. JOHNSON, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, and Ms. STABENOW proposes an amendment numbered 169.

The amendment is as follows:

(Purpose: Reaffirming that the United States maintain a one-to-two ratio for contributions to the Global Fund, that the United States not exceed contributing more than 33 percent of the Global Fund's revenue, and that the United States contribute an additional $500,000,000 to the Global Fund for Fiscal Year 2006, for a total of not less than $3,700,000,000 for all international HIV/AIDS, tuberculosis, and malaria programs)

On page 9, line 15, increase the amount by $500,000,000.

On page 9, line 16, increase the amount by $500,000,000.

On page 26, line 14, decrease the amount by $500,000,000.

On page 26, line 15, decrease the amount by $500,000,000.

At the appropriate place, insert the following:

SEC. ___. UNITED STATES RESPONSE TO GLOBAL HIV/AIDS, TUBERCULOSIS, AND MALARIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The HIV/AIDS pandemic has reached staggering proportions. At the end of 2004, an estimated 40,000,000 people were infected with HIV or living with AIDS. HIV/AIDS is estimated to kill 3,000,000 men, women and children each year. Each year, there are estimated to be 5,000,000 new HIV infections.

(2) The United States was the first, and remains the largest, contributor to the Global Fund.

(3) The Presidential Administration of George W. Bush (referred to in this section as the ''Administration'') has supported language in the Global HIV/AIDS authorization bill that links United States contributions to the Global Fund to the contributions of other donors, permitting the United States to provide 33 percent of all donations, which would match contributions on a one-to-two basis.

(4) Congress has provided one-third of all donations to the Global Fund every year of the Fund's existence.

(5) For fiscal year 2006, the Global Fund estimates it will renew $2,400,000,000 worth of effective programs that are already operating on the ground, and the Administration and Fund Board have said that renewals of existing grants should receive priority funding.

(6) The Global Fund is an important component of United States efforts to combat AIDS, tuberculosis and malaria, and supports approximately 300 projects in 130 countries.

(7) For fiscal year 2006, the President has requested $300,000,000 for the United States contribution to the Global Fund.

(8) Through a mid-year review process, Congress and the Administration will assess contributions to date and anticipated contributions to the Global Fund, and ensure that United States contributions, at year-end, are at the appropriate one-to-two ratio.

(9) Congress and the Administration will monitor contributions to the Global Fund to ensure that United States contributions do not exceed one-third of the Global Fund's revenues.

(10) In order to cover one-third of renewals during fiscal year 2006, and to maintain the one-to-two funding match, the United States will need to contribute an additional $500,000,000 above the President's request for the Global Fund for fiscal year 2006 to keep good programs funded at a level of $800,000,000.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the assumptions underlying this budget resolution assume that none of the offsets needed to provide $800,000,000 for the Global Fund will come from international humanitarian assistance programs.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 169.

The amendment (No. 169) was agreed to.

Mr. DURBIN. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. CONRAD. What is the next amendment in the queue?

The PRESIDING OFFICER. The only amendment that has been proposed but not disposed of is the Allen amendment.

Mr. GREGG. Is this the Allen amendment relative to NASA?

The PRESIDING OFFICER. The Senator from New Hampshire is correct.

Mr. GREGG. That amendment was agreed to by unanimous consent, as modified, in a tranche of amendments we did earlier this evening. We will get this clarified, Mr. President.

Mr. CONRAD. Mr. President, I ask that we recognize Senator LINCOLN for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 192

Mrs. LINCOLN. Mr. President, I would imagine that everyone in this body has heard equally as much from their local sheriffs as I have about the problem of methamphetamines across this country, particularly in rural America.

What this amendment does is it takes and restores the funding from the COPS initiative to methamphetamine enforcement and cleanup. We have seen tremendous increases across this great Nation in this destructive drug and what it is doing to rural America.

I compliment some of my colleagues on the other side—Senator COLEMAN and Senator TALENT—who have done a lot of work on this issue. We have good cosponsors on this side.

We pay for this initiative by some of the tax loopholes that did not seem to get closed in the FSC/ETI package. We are glad to work with our colleagues in any way possible to get this funding out to our States, out to our local law enforcement officers. They are having a devastating time trying to address this issue, and I hope my colleagues will take a look at the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I yield myself a minute off the managers' time. I was under the impression that the Senator's amendment took the funds from 920. Are you saying the Senator's amendment pays for this with an increase in taxes?

Mrs. LINCOLN. We will be more than willing to work with the other side on how we pay for it. It does need to be paid for.

Mr. GREGG. Mr. President, I reserve my time.

Mrs. LINCOLN. We can modify the amendment if the Senator would like.

Mr. GREGG. Why don't we reserve action on the Senator's amendment until we have a couple seconds to talk about it?

Mr. President, I would like to clarify that the Allen amendment has been adopted.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I ask unanimous consent to modify my amendment that I have just offered and that the funds necessary to implement this amendment be taken from the 920——

The PRESIDING OFFICER. Does the Senator from Arkansas call up her amendment?

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 192.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore funding to the COPS Methamphetamine Enforcement and Clean Up Program to 2005 levels and to close corporate tax loopholes)

On page 3, line 10, increase the amount by $4,000,000.

On page 3, line 11, increase the amount by $13,000,000.

On page 3, line 12, increase the amount by $21,000,000.

On page 3, line 13, increase the amount by $27,000,000.

On page 3, line 14, increase the amount by $32,000,000.

On page 3, line 19, increase the amount by $4,000,000.

On page 3, line 20, increase the amount by $13,000,000.

On page 3, line 21, increase the amount by $21,000,000.

On page 4, line 1, increase the amount by $27,000,000.

On page 4, line 2, increase the amount by $32,000,000.

On page 4, line 7, increase the amount by $32,000,000.

On page 4, line 8, increase the amount by $32,000,000.

On page 4, line 9, increase the amount by $32,000,000.

On page 4, line 10, increase the amount by $32,000,000.

On page 4, line 11, increase the amount by $32,000,000.

On page 4, line 16, increase the amount by $4,000,000.

On page 4, line 17, increase the amount by $13,000,000.

On page 4, line 18, increase the amount by $21,000,000.

On page 4, line 19, increase the amount by $27,000,000.

On page 4, line 20, increase the amount by $32,000,000.

On page 23, line 16, increase the amount by $32,000,000.

On page 23, line 17, increase the amount by $4,000,000.

On page 23, line 20, increase the amount by $32,000,000.

On page 23, line 21, increase the amount by $13,000,000.

On page 23, line 24, increase the amount by $32,000,000.

On page 23, line 25, increase the amount by $21,000,000.

On page 24, line 3, increase the amount by $32,000,000.

On page 24, line 4, increase the amount by $27,000,000.

On page 24, line 7, increase the amount by $32,000,000.

On page 24, line 8, increase the amount by $32,000,000.

On page 30, line 16, decrease the amount by $4,000,000.

On page 30, line 17, decrease the amount by $97,000,000.

On page 48, line 6, increase the amount by $32,000,000.

On page 48, line 7, increase the amount by $4,000,000.

On page 48, line 9, increase the amount by $32,000,000.

On page 48, line 12, increase the amount by $32,000,000.

At the appropriate place, insert the following:

SEC. ___. OFFSET FOR INCREASES IN FUNDING FOR THE COPS METHAMPHETAMINE ENFORCEMENT AND CLEAN UP PROGRAM.

It is the sense of the Senate that this resolution assumes that any increases in funding for the COPS Methamphetamine Enforcement Clean Up Program should be offset by increased revenues to be derived from closing corporate tax loopholes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I ask the Senator from Arkansas, is the Senator from Minnesota, Mr. COLEMAN, listed as a cosponsor?

Mrs. LINCOLN. Senator COLEMAN did ask to be listed as a cosponsor. I ask unanimous consent that both Senator TALENT and Senator COLEMAN be added as cosponsors to my amendment.

Mr. TALENT. Yes, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I now ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 192), as modified, is as follows:

(Purpose: To restore funding to the COPS Methamphetamine Enforcement and Clean Up Program to 2005 levels and to close corporate tax loopholes)

On page 23, line 16, increase the amount by $32,000,000.

On page 23, line 17, increase the amount by $4,000,000.

On page 23, line 20, increase the amount by $32,000,000.

On page 23, line 21, increase the amount by $13,000,000.

On page 23, line 24, increase the amount by $32,000,000.

On page 23, line 25, increase the amount by $21,000,000.

On page 24, line 3, increase the amount by $32,000,000.

On page 24, line 4, increase the amount by $27,000,000.

On page 24, line 7, increase the amount by $32,000,000.

On page 24, line 8, increase the amount by $32,000,000.

On page 26, line 14, decrease the amount by $32,000,000.

On page 26, line 15, decrease the amount by $4,000,000.

On page 26, line 17, decrease the amount by $32,000,000.

On page 26, line 18, decrease the amount by $13,000,000.

On page 26, line 20, decrease the amount by $32,000,000.

On page 26, line 21, decrease the amount by $21,000,000.

On page 26, line 23, decrease the amount by $32,000,000.

On page 26, line 24, decrease the amount by $27,000,000.

On page 27, line 1, decrease the amount by $32,000,000.

On page 27, line 2, decrease the amount by $32,000,000.

At the appropriate place, insert the following:

SEC. ___. OFFSET FOR INCREASES IN FUNDING FOR THE COPS METHAMPHETAMINE ENFORCEMENT AND CLEAN UP PROGRAM.

It is the sense of the Senate that this resolution assumes that any increases in funding for the COPS Methamphetamine Enforcement Clean Up Program should be offset by increased revenues to be derived from closing corporate tax loopholes.

Mr. GREGG. I suggest we have a voice vote on this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 192, as modified.

The amendment (No. 192), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 197 WITHDRAWN

Mr. ALLEN. Mr. President, in the two matters that were listed, so we have this all straight, my amendment No. 197, which has not been acted on—we passed my amendment 198, which was a sense of the Senate insofar as aeronautics funding which has been adopted—I ask unanimous consent that amendment No. 197 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 253

Mr. CONRAD. Mr. President, I ask that we consider the Baucus amendment that is pending. Senator BAUCUS

can give us 30 seconds on his amendment and then perhaps we could get it accepted.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. BINGAMAN, Mrs. MURRAY, and Mr. TALENT, proposes an amendment numbered 253.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To support full funding for HIDTAs)

On page 65, after line 25, insert the following:

SEC. ___. SENSE OF THE SENATE SUPPORTING FUNDING FOR HIDTAS.

(a) FINDINGS.—The Senate finds the following:

(1) The High Intensity Drug Trafficking Area (HIDTA) program encompasses 28 strategic regions, 355 task forces, 53 intelligence centers, 4,428 Federal personnel, and 8,459 State and local personnel.

(2) The purposes of the HIDTA program are to reduce drug trafficking and drug production in designated areas in the United States by—

(A) facilitating cooperation among Federal, State, and local law enforcement agencies to share information and implement coordinated enforcement activities;

(B) enhancing intelligence sharing among Federal, State, and local law enforcement agencies;

(C) providing reliable intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of drugs in HIDTA designated areas.

(3) In 2004, HIDTA efforts resulted in disrupting or dismantling over 509 international, 711 multi-State, and 1,110 local drug trafficking organizations.

(4) In 2004, HIDTA instructors trained 21,893 students in cutting-edge practices to limit drug trafficking and manufacturing within their areas.

(5) The HIDTAs are the only drug enforcement coalitions that include equal partnership between Federal, State, and local law enforcement leaders executing a regional approach to achieving regional goals while pursuing a national mission.

(6) The proposed budget of $100,000,000 for the HIDTA program is inadequate to effectively maintain all of the operations currently being supported.

(7) The proposed budget of $100,000,000 for the HIDTA program would undermine the viability of this program and the efforts of law enforcement around the country to combat illegal drugs, particularly methamphetamine.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the spending level of budget function 750 (Administration of Justice) is assumed to include $227,000,000 for the High Intensity Drug Trafficking Areas; and

(2) unless new legislation is enacted, it is assumed that the HIDTA program will remain with the Office of National Drug Control Policy, where Congress last authorized it to reside.

Mr. BAUCUS. Mr. President, this is very simple. It is to restore a cut in the HIDTA funding. HIDTA is called the High Intensity Drug Trafficking Administration. This is the major law enforcement mechanism. It covers lots of different law enforcement agencies, in the west, particularly rural areas, to fight methamphetamine. We need the resources to fight methamphetamine. Methamphetamine is probably the largest scourge in many rural parts of America. This is designed to enable us to have the resources to fight methamphetamine in our country.

The PRESIDING OFFICER. All time has expired.

Mr. GREGG. Mr. President, I suggest a voice vote on this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, on our side, we want to signal strong support for this amendment, and we can voice vote the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 253.

The amendment (No. 253) was agreed to.

Mr. TALENT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

AMENDMENT NO. 202

Mr. CONRAD. Mr. President, I ask that we recognize Senator DAYTON for the purpose of offering an amendment and that Senator DAYTON have 1 minute to describe his amendment.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 1 minute.

Mr. DAYTON. Mr. President, I call up amendment No. 202 and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator will suspend.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I recognize that there is a lot going on right now and I apologize for a touch of confusion, but if Senator DAYTON has been yielded 1 minute as a result of a unanimous consent, we ask unanimous consent for 1 minute on our side in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON], for himself, Mr. AKAKA, Mr. LEVIN, Mr. LIEBERMAN, and Ms. MIKULSKI, proposes an amendment numbered 202.

Mr. DAYTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide full funding for the Individuals with Disabilities Education Act, IDEA, part B grants over five years. This amendment is fully offset by restoring the uppermost marginal income tax rate for millionaires only, and by closing corporate tax loopholes. The amendment will also provide for $2.5 billion in deficit reduction over the five-year period)

On page 3, line 10, increase the amount by $12,100,000,000.

On page 3, line 11, increase the amount by $13,000,000,000.

On page 3, line 12, increase the amount by $13,600,000,000.

On page 3, line 13, increase the amount by $17,100,000,000.

On page 3, line 14, increase the amount by $17,966,000,000.

On page 3, line 19, increase the amount by $12,100,000,000.

On page 3, line 20, increase the amount by $13,000,000,000.

On page 3, line 21, increase the amount by $13,600,000,000.

On page 4, line 1, increase the amount by $17,100,000,000.

On page 4, line 2, increase the amount by $17,966,000,000.

On page 4, line 7, increase the amount by $12,977,000,000.

On page 4, line 8, increase the amount by $13,556,000,000.

On page 4, line 9, increase the amount by $14,236,000,000.

On page 4, line 10, increase the amount by $14,922,000,000.

On page 4, line 11, increase the amount by $15,600,000,000.

On page 4, line 16, increase the amount by $260,000,000.

On page 4, line 17, increase the amount by $8,836,000,000.

On page 4, line 18, increase the amount by $13,125,000,000.

On page 4, line 19, increase the amount by $14,021,000,000.

On page 4, line 20, increase the amount by $14,703,000,000.

On page 4, line 24, increase the amount by $11,840,000,000.

On page 4, line 25, increase the amount by $4,164,000,000.

On page 5, line 1, increase the amount by $475,000,000.

On page 5, line 2, increase the amount by $3,079,000,000.

On page 5, line 3, increase the amount by $3,263,000,000.

On page 5, line 7, decrease the amount by $11,840,000,000.

On page 5, line 8, decrease the amount by $16,004,000,000.

On page 5, line 9, decrease the amount by $16,479,000,000.

On page 5, line 10, decrease the amount by $19,558,000,000.

On page 5, line 11, decrease the amount by $22,821,000,000.

On page 5, line 15, decrease the amount by $11,840,000,000.

On page 5, line 16, decrease the amount by $16,004,000,000.

On page 5, line 17, decrease the amount by $16,479,000,000.

On page 5, line 18, decrease the amount by $19,558,000,000.

On page 5, line 19, decrease the amount by $22,821,000,000.

On page 17, line 16, increase the amount by $12,977,000,000.

On page 17, line 17, increase the amount by $260,000,000.

On page 17, line 20, increase the amount by $13,556;000,000.

On page 17, line 21, increase the amount by $8,836,000,000.

On page 17, line 24, increase the amount by $14,236,000,000.

On page 17, line 25, increase the amount by $13,125,000,000.

On page 18, line 3, increase the amount by $14,922,000,000.

On page 18, line 4, increase the amount by $14,021,000,000.

On page 18, line 7, increase the amount by $15,600,000,000.

On page 18, line 8, increase the amount by $14,703,000,000

On page 30, line 16, decrease the amount by $12,100,000,000.

On page 30, line 17, decrease the amount by $73,766,000,000.

At the end of Section 309, insert the following:

SEC. 310. RESERVE FUND FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

The Chairman of the Committee on the Budget of the Senate shall, in consultation with the Members of the Committee on the Budget and the Chairman and Ranking Member of the appropriate committee, increase the allocations pursuant to section 302(a) of the Congressional Budget Act of 1974 to the Committee on Health, Education, Labor, and Pensions of the Senate by up to $12,977,000,000 in new budget authority and $260,000,000 in outlays for fiscal year 2006, and $71,292,000,000 in new budget authority and $50,944,000,000 in outlays for the total of fiscal years 2006 through 2010, for a bill, amendment, or conference report that would provide increased funding for part B grants, other than section 619, under the Individuals with Disabilities Education Act (IDEA), with the goal that funding for these grants, when taken together with amounts provided by the Committee on Appropriations, provides 40 percent of the national average per pupil expenditure for children with disabilities.

Mr. DAYTON. Mr. President, I thank my cosponsors, Senators DURBIN, MIKULSKI, LIEBERMAN, STABENOW, and AKAKA. My amendment would increase the Federal share of funding for special education to the level of 40 percent of the cost that was promised when IDEA was established almost 30 years ago. Despite the increases that President Bush has proposed and that this Congress has enacted in the last 4 years, that Federal share is still less than half of what was promised back then. My colleagues have before them as a part of the letter that I submitted what the difference is for their respective States. For Minnesota, it is about $250 million. That money would be badly needed and best used by our local school districts.

As a result of the shortfall in Minnesota, and I suspect other States, funds that are supposed to go to regular education get shifted over to cover the shortfall for special education, meaning the quality of education for all of our students goes down.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DAYTON. I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment would add $74 billion in spending and would increase taxes by $74 billion. It comes in the context of the fact that it would actually exceed the authorized level of IDEA as just reauthorized. In addition, it ignores the fact that this President has made a stronger commitment to IDEA than any President in history, especially in comparison to the prior President. This President has increased IDEA funding by 74 percent in his first 4 years in office, and he has made a commitment in this budget to add another $500 million in IDEA. It is obviously a classic tax-and-spend amendment, and I certainly hope my colleagues would defeat it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GREGG. I would suggest that this be a 10-minute vote since we had a break in the voting.

The PRESIDING OFFICER. There appears to be a sufficient second.

The question is on agreeing to amendment No. 202.

This will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—37

Akaka	Feinstein	Mikulski
Baucus	Harkin	Murray
Bayh	Inouye	Obama
Biden	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Corzine	Leahy	Stabenow
Dayton	Levin	Wyden
Durbin	Lieberman	
Feingold	Lincoln	

NAYS—63

Alexander	DeWine	McCain
Allard	Dodd	McConnell
Allen	Dole	Murkowski
Bennett	Domenici	Nelson (FL)
Bingaman	Dorgan	Nelson (NE)
Bond	Ensign	Roberts
Brownback	Enzi	Salazar
Bunning	Frist	Santorum
Burns	Graham	Sessions
Burr	Grassley	Shelby
Carper	Gregg	Smith
Chambliss	Hagel	Snowe
Coburn	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Isakson	Talent
Conrad	Kohl	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

The amendment (No. 202) was rejected.

Mr. CONRAD. Mr. President, can I just say for the information of my colleagues—could I have order?

The PRESIDING OFFICER. The Senator will suspend. The Senate will come to order.

Mr. CONRAD. Can I say for the information of my colleagues, we are getting close now. We are under 10 amendments to go. We are trying to work things out. We have a number of other amendments. I see the chairman is back now. I think there are three more amendments that we could take on a unanimous consent basis, is that not correct?

Mr. GREGG. We can in probably just a few minutes, yes.

Mr. CONRAD. So, for the information of our colleagues, if they will continue to work with us we can reach conclusion at a reasonable time. We have made enormous progress in the last hour, I say to my colleagues. Again, we are at about 10 amendments left. We have a number that we can work out.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 155, 216, AS MODIFIED, 157, AS MODIFIED, 163, 167, AND 154, AS MODIFIED, EN BLOC

Mr. GREGG. Mr. President, I list the following amendments which have been agreed to. We will ask they be accepted en bloc by unanimous consent: the Gregg-Clinton-Kennedy flu reserve amendment, No. 155; the Snowe-Kerry SBA, as modified, No. 216; the Bayh sense of the Senate on a GAO study of debt, No. 157; the Santorum amendment No. 163, a sense of the Senate on charitable activity; the Chafee clean water, Baucus-Grassley SSA—Social Security Administration—No. 167; the Clinton comparative effectiveness sense of the Senate, No. 154.

I ask unanimous consent those amendments be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 155

(Purpose: To establish a deficit neutral reserve fund for influenza vaccine shortage prevention)

At the appropriate place, insert the following:

SEC. ____. DEFICIT NEUTRAL RESERVE FUND FOR INFLUENZA VACCINE SHORTAGE PREVENTION.

If the Committee on Health, Education, Labor, and Pensions of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases the participation of manufacturers in the production of influenza vaccine, increases research and innovation in new technologies for the development of influenza vaccine, and enhances the ability of the United States to track and respond to domestic influenza outbreaks as well as pandemic containment efforts, the chairman of the Committee on the Budget shall revise committee allocations for the Committee on Health, Education, Labor, and Pensions and other appropriate budgetary aggregates and allocations of new budget authority and outlays by the amount provided by that measure for that purpose, regardless of whether the committee is within its 302(a) allocations, and such legislation shall be exempt from sections 302, 303, 311, and 425 of the Congressional Budget Act, and from section 505 of the concurrent resolution on the budget for fiscal year 2004 (H. Con. Res. 95), if that measure would not increase the deficit for fiscal year 2006 and for the period of fiscal years 2006 through 2010.

AMENDMENT NO. 216, AS MODIFIED

(Purpose: To increase funding for the SBA's programs such as Microloans, Small Business Development Centers, Women's Business Centers, the HUBZone program and other small business programs and to offset the cost through a reduction in funds under function 150 for foreign microloans and other programs)

On page 9, line 15, decrease the amount by $78,000,000.

On page 9, line 16, decrease the amount by $60,000,000.

On page 9, line 20, decrease the amount by $13,000,000.

On page 9, line 24, decrease the amount by $28,000,000.

On page 10, line 3, decrease the amount by $1,000,000.

On page 14, line 15, increase the amount by $78,000,000.

On page 14, line 16, increase the amount by $60,000,000.

On page 14, line 20, increase the amount by $13,000,000.

On page 14, line 24, increase the amount by $28,000,000.

On page 15, line 3, increase the amount by $1,000,000.

AMENDMENT NO. 157, AS MODIFIED

(Purpose: To express the sense of the Senate regarding the amount of United States debt that is foreign-owned)

On page 65, after line 25, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING FOREIGN-OWNED DEBT.

It is the sense of the Senate that the Secretary of the Treasury and the Comptroller General should each conduct a study to examine the economic impact of United States publicly-held debt that is held by foreign governments, institutions, and individuals. The study should provide an analysis of the following:

(1) The amount of foreign-owned debt dating back to 1980, broken down by foreign governments, foreign institutions, and foreign private investors, and expressed in nominal terms and as a percentage of the total amount of publicly-held debt in each year.

(2) The economic impact that the increased foreign ownership of United States publicly-held debt has had on the ability of the United States to maintain a stable dollar policy.

(3) The impact that foreign ownership of United States publicly-held debt has had, or could have, on United States trade policy.

AMENDMENT NO. 163

(Purpose: To express the sense of the Senate regarding tax relief to encourage charitable giving incentives)

At the end of title V, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING TAX RELIEF TO ENCOURAGE CHARITABLE GIVING.

(a) FINDINGS.—The Senate finds that—

(1) the CARE Act, which represents a part of the President's faith-based initiative, will spur charitable giving and assist faith-based and community organizations that serve the needy;

(2) more than 1,600 small and large organizations from around the Nation have endorsed the CARE Act, and in the 108th Congress the CARE Act had bipartisan support and was sponsored by 23 Senators;

(3) although the CARE Act passed the Senate on April 9, 2003, by a vote of 95 to 5, and the House of Representatives passed companion legislation on September 17, 2003, by a vote of 408 to 13, a conference committee on the CARE Act was never formed and a final version was not passed in the 108th Congress; and

(4) charities around the Nation continue to struggle, and the passage of the incentives for charitable giving contained in the CARE Act would provide significant dollars in private and public sector assistance to those in need.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that a relevant portion of amounts in this budget resolution providing for tax relief should be used—

(1) to provide the 86,000,000 Americans who do not itemize deductions an opportunity to deduct charitable contributions;

(2) to provide incentives for individuals to give tax free contributions from individual retirement accounts for charitable purposes;

(3) to provide incentives for an estimated $2,000,000,000 in food donations from farmers, restaurants, and corporations to help the needy, an equivalent of 878,000,000 meals for hungry Americans over 10 years;

(4) to provide at least 300,000 low-income, working Americans the opportunity to build assets through individual development accounts or IDAs, which can be used to purchase a home, expand educational opportunity, or to start a small business; and

(5) to provide incentives for corporate charitable contributions.

AMENDMENT NO. 167

(Purpose: To express the sense of the Senate that the full amount of the President's request for the administrative costs of the Social Security Administration for fiscal year 2006 should be funded)

At the appropriate place insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING FUNDING OF ADMINISTRATIVE COSTS OF SOCIAL SECURITY ADMINISTRATION.

It is the sense of the Senate that Congress should approve the full amount of the President's request for the administrative costs of the Social Security Administration for fiscal year 2006, including funds for the implementation of the low-income prescription drug subsidy under part D of title XVIII of the Social Security Act (as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003).

AMENDMENT NO. 154, AS MODIFIED

(Purpose: To express the sense of the Senate concerning comparative effectiveness studies)

At the appropriate place in title III, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING COMPARATIVE EFFECTIVENESS STUDIES.

It is the Sense of the Senate that—

(1) the overall discretionary levels set in this resolution assume $75,000,000 in new budget authority in fiscal year 2006 and new outlays that flow from this budget authority in fiscal year 2006 and subsequent years, to fund research and ongoing systematic reviews, consistent with efforts currently undertaken by the Agency for Health Care Research and Quality designed to improve scientific evidence related to the comparative effectiveness and safety of prescription drugs and other treatments and to disseminate the findings from such research to health care practitioners, consumers, and health care purchasers; and

(2) knowledge gaps identified through such efforts be addressed in accordance with the authorizing legislation and with oversight from the committees of subject matter jurisdiction.

Mr. SARBANES. Mr. President, will the chairman, the manager of the bill, yield for a question?

Mr. GREGG. Yes.

Mr. SARBANES. I understand in the list you just read was a sense of the Senate by Senator CHAFEE on clean water, is that correct?

Mr. GREGG. That is correct.

Mr. SARBANES. I inform the managers that I have an amendment involving clean water, but I will not offer it.

Mr. GREGG. I thank the Senator. That is very helpful.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 217, AS MODIFIED

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment by Senator KOHL dealing with juvenile accountability block grants, No. 217, be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 217) as modified, was agreed to, as follows:

(Purpose: To restore $1 billion to juvenile justice and local law enforcement programs funded by the Department of Justice, including the Juvenile Accountability Block Grant Program, the Byrne Justice Assistance Grant Program, the COPS Program, and the High Intensity Drug Trafficking Area (HIDTA) Program)

On page 23 line 16, increase the amount by $500,000,000.

On page 23 line 17, increase the amount by $60,000,000.

On page 23 line 21, increase the amount by $140,000,000.

On page 23 line 25, increase the amount by $125,000,000.

On page 24 line 4, increase the amount by $100,000,000.

On page 24 line 8, increase the amount by $75,000,000.

On page 26 line 14, decrease the amount by $500,000,000.

On page 26 line 15, decrease the amount by $60,000,000.

On page 26 line 18, decrease the amount by $140,000,000.

On page 26 line 21, decrease the amount by $125,000,000.

On page 26 line 24, decrease the amount by $100,000,000.

On page 27 line 2, decrease the amount by $75,000,000.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 155, AS MODIFIED, AND 157, AS MODIFIED

Mr. GREGG. Mr. President, I ask that the previously agreed-to Bayh and Gregg amendments be modified with the modifications which are at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 154, AS MODIFIED

Mr. GREGG. I ask that it also apply to the Clinton amendment No. 154.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask that we now turn our attention to the Pryor LIHEAP amendment and that we recognize Senator PRYOR for 30 seconds to present that amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 213

Mr. PRYOR. Mr. President, I call up amendment No. 213.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 213.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for the Low-Income Home Energy Assistance Program and reduce the national debt by closing corporate tax loopholes)

On page 3, line 10, increase the amount by $1,200,000,000.

On page 3, line 19, increase the amount by $1,200,000,000.

On page 4, line 7, increase the amount by $1,200,000,000.

On page 4, line 16, increase the amount by $1,200,000,000.

On page 20, line 16, increase the amount by $1,200,000,000.

On page 20, line 17, increase the amount by $1,200,000,000.

On page 30, line 16, decrease the amount by $1,200,000,000.

On page 30, line 17, decrease the amount by $1,200,000,000.

On page 48, line 6, increase the amount by $1,200,000,000.

On page 48, line 7, increase the amount by $1,200,000,000.

Mr. PRYOR. Mr. President, I offer an amendment to increase the funding for LIHEAP from $1.8 billion to $3 billion. This amendment is fully offset. LIHEAP has received level funding for more than 20 years, but energy prices have not remained level. They have not remained stable. In fact, they are at all-time highs. We all have stories such as this from our States. Recently, a mother of two from Arkansas turned on her electric oven in order to heat the house, burned the house down, and killed her two daughters. We all have similar stories such as that from around the Nation.

This is an amendment that will help the people who need it most in all of our States.

Mr. GREGG. Mr. President, this amendment actually increases spending on the program by $1.2 billion. It is a bit excessive, and, therefore, I will oppose this amendment and ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 213) was rejected.

Mr. CONRAD. Mr. President, I want to say for the information of Senators that we are now very close. We have six or seven amendments left to do. We are working hard to try to clear some of them. Some of them no doubt will still require votes. We ask for our colleagues' patience. We have, I think, made enormous progress. You will remember when we started this, we were headed for being here until 3 o'clock in the morning. Very substantial progress has been made because of the cooperation of Members on both sides. If we can be patient a few more minutes, we can clear additional amendments and then be prepared to push to the end.

AMENDMENT NO. 254, AS MODIFIED

Mr. GREGG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. SALAZAR, proposes an amendment numbered 254, as modified.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restore funding for the payment in lieu of taxes program (PILT), in order to compensate rural counties for deceased tax revenues as a result of non-taxed federally owned county lands. The increase is offset using Function 150)

On page 9, line 15, decrease the amount by $150,000,000.

On page 9, line 16, decrease the amount by $150,000,000.

On page 24, line 16, increase the amount by $150,000,000.

On page 24, line 17, increase the amount by $150,000,000.

Mr. GREGG. I ask unanimous consent the amendment be accepted.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment.

The amendment (No. 254), as modified, was agreed to.

Mr. CONRAD. This is another good example of a Senator cooperating, I might add. We got one amendment worked out, he dropped another amendment. This is a very good way to proceed.

I ask the Chair if we could turn our attention to Senator PRYOR.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 252, AS MODIFIED

Mr. PRYOR. I call amendment 252, as modified, to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself and Mr. BAUCUS, proposes an amendment numbered 252, as modified.

Mr. PRYOR. I ask unanimous consent the reading of the amendment be dispensed.

The amendment, as modified, is as follows:

(Purpose: To create a reserve fund for extension of the treatment of combat pay as earned income for purposes of the earned income tax credit and the child tax credit)

At the end of title III, insert:

SEC. _____. RESERVE FUND FOR EXTENSION OF TREATMENT OF COMBAT PAY FOR EARNED INCOME AND CHILD TAX CREDITS.

If the Committee on Finance reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that makes permanent the taxpayer election to treat combat pay otherwise excluded from gross income under section 112 of the Internal Revenue Code as earned income for purposes of the earned income credit and makes permanent the treatment of such combat pay as earned income for purposes of the child tax credit, provided that the Committee is within its allocation as provided under section 302(a) of the Congressional Budget Act of 1974, the Chairman of the Committee on the Budget may revise the allocations of budget authority and outlays, the revenue aggregates, and other appropriate measures, provided that such legislation would not increase the deficit for the period of fiscal year 2006 or the total of fiscal years 2006 though 2010.

Mr. GREGG. Mr. President, if the Senator from Arkansas wants to proceed.

Mr. PRYOR. Mr. President, amendment 252, as modified, creates a reserve fund for the extension of the treatment of combat pay as earned income for purposes of the earned-income tax credit and the child tax credit. This actually is something the Senate signed off on last year, but it was knocked out in conference. I certainly would appreciate positive consideration for this amendment.

Mr. GREGG. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the modified amendment.

The amendment, (No. 252), as modified, was agreed to.

Mr. GREGG. As the Senator from North Dakota has mentioned, we are moving rather close to completion. There are a couple of amendments still pending on which votes may be required. Hopefully, we can proceed promptly to those and wrap this up also promptly.

AMENDMENT NO. 238, AS MODIFIED

Mr. GREGG. Mr. President, I suggest the Senator from Michigan has an amendment.

Mr. LEVIN. Mr. President, I send modified amendment numbered 288 to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. DEWINE, Ms. STABENOW, Mr. LIEBERMAN, and Mr. BINGAMAN, proposes an amendment numbered 238, as modified.

The amendment is as follows:

(Purpose: To promote innovation and U.S. competitiveness by expressing the sense of the Senate urging the Senate Appropriations Committee to make efforts to fund the Advanced Technology Program, which supports industry-led research and development of cutting-edge technologies with broad commercial potential and societal benefits)

In the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE ADVANCED TECHNOLOGY PROGRAM.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate Committee on Appropriations should make every effort to provide funding for the Advanced Technology Program in fiscal year 2006.

Mr. LEVIN. Mr. President, this amendment is on behalf of Senator DEWINE, myself, Senator LIEBERMAN, and others. We have lost 2.8 million manufacturing jobs in this country in the last 4 years. We have a very modest program called the Advanced Technology Program, which, according to the Department of Commerce, in their publication, which I would be happy to share with those who can come to take a look at it, according to the Department of Commerce, this program has had a result eight times more in technologies developed than the amount of money we have put into the program. It is an eight-time return—multiple—in advanced technologies which is achieved when the Department of Commerce partners with industry.

Mr. GREGG. Mr. President, this amendment would suggest we continue a program which has certainly outlived its day. It is essentially walking around money for the technology industries, picking winners and losers in the area of commercial products that the Government has no role in doing. It is money that could be better spent on basic research—for example, at the NIH.

I strongly oppose this amendment and hope we will defeat it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. This is now a sense of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 238. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—53

Akaka	Bayh	Boxer
Allen	Biden	Byrd
Baucus	Bingaman	Cantwell
Carper	Johnson	Pryor
Clinton	Kennedy	Reed
Coleman	Kerry	Reid
Conrad	Kohl	Rockefeller
Corzine	Landrieu	Salazar
Dayton	Lautenberg	Sarbanes
DeWine	Leahy	Schumer
Dodd	Levin	Shelby
Dorgan	Lieberman	Snowe
Durbin	Lincoln	Specter
Feinstein	Mikulski	Stabenow
Harkin	Murray	Voinovich
Hutchison	Nelson (FL)	Warner
Inouye	Nelson (NE)	Wyden
Jeffords	Obama	

NAYS—46

Alexander	DeMint	Lugar
Allard	Dole	Martinez
Bennett	Domenici	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Murkowski
Bunning	Feingold	Roberts
Burns	Frist	Sessions
Burr	Graham	Smith
Chafee	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Hagel	Talent
Cochran	Hatch	Thomas
Collins	Inhofe	Thune
Cornyn	Isakson	Vitter
Craig	Kyl	
Crapo	Lott	

NOT VOTING—1

Santorum

The amendment (No. 238), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I think the RECORD should show that Senator SANTORUM, through no fault of his own, missed the last vote. And I regret that we cannot, through unanimous consent, correct that.

Mr. GREGG. I think that is a very appropriate statement by the Senator from North Dakota, which we all can agree with.

Mr. President, I yield to the Senator from Vermont for an amendment.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 237, AS MODIFIED

Mr. LEAHY. Mr. President, I have an amendment at the desk regarding Boys and Girls Clubs.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. LEAHY. I ask to send a modification of the amendment to the desk. If they cannot find the amendment at the desk, I ask that it be in order to have the modification be the amendment to be considered. It is amendment No. 237.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 237, as modified.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for Boys and Girls Clubs)

On page 23 line 16, increase the amount by $25,000,000.

On page 23 line 17, increase the amount by $6,000,000.

On page 23 line 21, increase the amount by $8,000,000.

On page 23 line 25, increase the amount by $5,000,000.

On page 24 line 4, increase the amount by $4,000,000.

On page 24 line 8, increase the amount by $3,000,000.

On page 26, line 14, decrease the amount by $25,000,000.

On page 26, line 15, decrease the amount by $6,000,000.

On page 26, line 18, decrease the amount by $8,000,000.

On page 26, line 21, decrease the amount by $5,000,000.

On page 26, line 24, decrease the amount by $4,000,000.

On page 27, line 2, decrease the amount by $3,000,000.

Mr. LEAHY. Mr. President, this is an amendment to restore funding for the Boys & Girls Clubs of America to their current fiscal year level. From my days as a prosecutor, throughout my career in the Senate, I have seen the great value of Boys and Girls Clubs. This is not a Democratic or Republican issue.

We have a responsibility to make sure that our children are safe and secure. I know firsthand how well Boys and Girls Clubs work and what top-notch organizations they are. When I was a prosecutor in Vermont, I was convinced of the great need for Boys and Girls Clubs because we rarely encountered children from these kinds of programs. In fact, after I became a U.S. Senator, a police chief was such a big fan of the clubs that he asked me to help fund a Boys and Girls Club in his district rather than helping him add a couple more police officers.

In Vermont, Boys and Girls Clubs have succeeded in preventing crime and supporting our children. The first club was established in Burlington 63 years ago. Now we have 20 club sites operating throughout the State in Addison, Chittenden, Orange, Rutland, Washington, Windham and Windsor Counties. There are also four new Boys and Girls Clubs in the works in Winooski, Brattleboro, Barre and Vergennes. These clubs will serve well over 10,000 kids statewide.

As a senior member of the Senate Appropriations Committee, I have pushed for more Federal funding for Boys and Girls Clubs. Since 1998, Congress has increased Federal support for Boys and Girls Clubs from $20 million to $85 million in this fiscal year. Due in large part to this increase in funding, there now exist 3,500 Boys and Girls Clubs in all 50 States serving more than 4 million young people.

Because of these successes, I was both surprised and disappointed to see that the President requested a reduction of $25 million for fiscal year 2006. That request will leave thousands of children and their Clubs behind. We cannot allow such a thing to happen.

Last year, Senator HATCH and I worked together to shepherd into law a reauthorization of Justice Department grants at $80 million for fiscal year 2006, $85 million for fiscal year 2007, $90 million for fiscal year 2008, $95 million for fiscal year 2009 and $100 million for fiscal year 2010 to Boys and Girls Clubs

to help establish 1,500 additional Boys and Girls Clubs across the Nation with the goal of having 5,000 Boys and Girls Clubs in operation by December 31, 2010.

If we had a Boys and Girls Club in every community, prosecutors in our country would have a lot less work to do in the courtroom. Each time I visit a club in Vermont, I am approached by parents, educators, teachers, grandparents and law enforcement officers who tell me ''Keep doing this! These clubs give our children the chance to grow up free of drugs, gangs and crime.''

You cannot argue that these are just Democratic or Republican ideas, or conservative or liberal ideas—they are simply good sense ideas. We need safe havens where our youth—the future of our country—can learn and grow up free from the influences of drugs, gangs and crime. That is why Boys and Girls Clubs are so important to our children.

Across the Nation, Boys and Girls Clubs are preventing crime and supporting our children. My amendment will restore funding for the Boys and Girls Clubs of America to the fiscal year 2005 level of $85 million. It provides a full offset at $50 million split evenly for the Boys and Girls Clubs and for deficit reduction by, for example, closing corporate tax loopholes. It also expresses the sense of the Senate on the value of Boys and Girls Clubs in their mission to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, responsible and caring citizens.

Congress has authorized and appropriated increased levels of funding for the Boys and Girls Clubs of America in each of the last 8 years because of the clubs' proven role in discouraging youth gangs, drug abuse and youth violence. The budget resolution, following the President's lead, reduces funding for Boys and Girls Clubs by $25 million—from $85 million to $60 million—and completely ignores the 5-year authorization for the Boys and Girls Club grant program enacted by Congress and signed by the President in October 2004. A drop to $60 million in the coming fiscal year will likely result in an across-the-board decrease of 30 percent to club pass-thru grants, as well as a 30 percent cut to the overall increase in youth served. In connection with my amendment I have offered to substitute other offsets.

Mr. President, I urge the Senate to adopt the Leahy amendment to restore funding by $25 million for the 2006 fiscal year for the Boys and Girls Clubs of America. Our country's strength and ultimate success lies with our children. Our greatest responsibility is to help them inhabit this century the best way possible and we can help do that by supporting the Boys and Girls Clubs of America.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 237), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 262

Mr. GREGG. Mr. President, I send to the desk, on behalf of Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY, an amendment and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. GRASSLEY, proposes an amendment numbered 262.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate with respect to pension reform)

At the end of title V, insert the following:

SEC. ___. SENSE OF THE SENATE WITH RESPECT TO PENSION REFORM.

(a) FINDINGS.—The Senate finds the following:

(1) The rules for calculating the funded status of pension plans and for determining calculations, premiums, and other issues should ensure strong funding of such plans in both good and bad economic times.

(2) The expiration of the interest rate provisions of the Pension Funding Equity Act of 2004 at the end of 2005 and the need to address the deficit at the Pension Benefit Guaranty Corporation (referred to in this section as the ''PBGC'') demand enactment of pension legislation this year.

(3) Thirty-four million active and retired workers are relying on their defined benefit plans to provide retirement security, and a failure by Congress to reform the defined benefit system will place at risk the pensions of millions of Americans.

(4) Stabilization of the defined benefit pension system and the PBGC may require significant and structural changes in the Employee Retirement and Income Security Act of 1974 and the Internal Revenue Code of 1986, which must be undertaken in a single comprehensive set of reforms.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees shall insist on the Senate position expressed in this resolution with respect to PBGC premiums.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 262) was agreed to.

Mr. GREGG. Mr. President, I yield to the Senator from Ohio.

AMENDMENT NO. 161, AS MODIFIED

Mr. DEWINE. Mr. President, amendment No. 161 is at the desk, with modifications.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself and Mr. LEAHY, proposes an amendment numbered 161, as modified.

The amendment is as follows:

(Purpose: To increase funding for Child Survival and Maternal Health Programs)

On page 9, line 15, increase the amount by $76,000,000.

On page 9, line 16, increase the amount by $15,000,000.

On page 9, line 20, increase the amount by $34,000,000.

On page 9, line 24, increase the amount by $14,000,000.

On page 10, line 3, increase the amount by $7,000,000.

On page 10, line 7, increase the amount by $3,000,000.

On page 26, line 14, decrease the amount by $76,000,000.

On page 26, line 15, decrease the amount by $15,000,000.

On page 26, line 18, decrease the amount by $34,000,000.

On page 26, line 21, decrease the amount by $14,000,000.

On page 26, line 24, decrease the amount by $7,000,000.

On page 27, line 2, decrease the amount by $3,000,000.

Mr. DEWINE. Mr. President, today I join my friend and colleague, Senator LEAHY, in offering this amendment that would increase the funding level for the child survival and maternal health program to $400 million.

Basically, by voting for this amendment we will save many lives. It provides money for vaccinations, immunizations, and vitamins that will save lives around the world.

Mr. LEAHY. I join the Senator and urge adoption of the amendment.

Mr. CONRAD. Mr. President, we now have the DeWine amendment before us.

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 161), as modified, was agreed to.

PARITY ASSUMPTION

Mr. DOMENICI. Mr. President, I begin by complimenting my friend from New Hampshire and the Chairman of the Senate Budget Committee on a job well done. As the new Chairman, he has skillfully navigated a difficult course to produce the budget resolution before us today. Congratulations.

I also want to tell him that even though this is his first year as the Budget Committee chairman, he has handled the job like a seasoned veteran.

I would like to raise the issue of mental health parity as the Senate debates the FY 2006 Senate Budget Resolution.

It is my understanding the resolution before us assumes the revenue impact of enacting a mental health parity law at a cost of $1.5 billion over 5 years. However, I want to make sure that this is indeed the case because the assumption I just mentioned is not specifically referenced in S. Con. Res. 18.

Rather, the overall revenue number is such that it assumes Congress will pass mental health parity legislation.

Mr. GREGG. I understand the concern of the distinguished senior Senator from New Mexico regarding mental health parity legislation and I would concur with my colleague's assessment. S. Con. Res. 18 does assume the revenue impact of enacting mental health parity legislation.

Mr. DOMENICI. I thank the distinguished Chairman for his consideration and explanation of this important matter.

ENERGY SAVINGS PERFORMANCE CONTRACTS

Mr. INHOFE. Mr. President, I would like to bring to the Budget Committee's attention a great program that saves the Federal Government both money and energy—it is called Energy Savings Performance Contracting or ESPC. Under this public-private initiative, the private sector upgrades our aging federal facilities and military bases with new energy efficient equipment, at no upfront cost to the government. The private sector is then paid back over time with the savings from the government's utility bills. The beauty of this program is that under the law, the energy savings must cover the project costs and also guarantee that there will be additional savings to the government, as codified per the Energy Policy Act of 1992:

H.R. 776

Energy Policy Act of 1992 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 155. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking ''The head'' and inserting the following:

''(a) IN GENERAL.—(1) The head''; and

(2) by inserting at the end the following:

''(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any Government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

''(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

''(C) Federal agencies may incur obligations pursuant to such contracts in finance energy conservation measures provided guaranteed savings exceed the debt service requirements.''

It's a win-win program for the government and taxpayers.

The problem is that under the current CBO budget scoring methodology, the entire contract cost is scored up front and there is no accounting for the guaranteed savings which are required by law. Since these guaranteed savings are not recognized, this program is scored as costing the government money when in reality this is not the case. The Office of Management and Budget views the program as budget neutral, and the program has strong support from the Administration.

This current scoring dilemma for the ESPC program has been problematic in the reauthorization of this valuable program. I respectfully ask that the Budget Committee work with the Congressional Budget Office to resolve this scoring problem for the ESPC program.

Mr. BINGAMAN. I want to thank the Senator from Oklahoma for raising this issue, and I will ask the Budget Committee staff to look into the scoring of the ESPC program with an eye towards accounting for the mandatory savings and thus resolving the matter.

IT/P4P RESERVE FUND

Mr. KENNEDY. Mr. President, I commend the chairman and ranking member of the Budget Committee for working with me, and with the chairman of the HELP Committee, as well as with the chairman and ranking member of the Finance Committee to include within the budget resolution a reserve fund to provide incentives for adoption of modern information technology to improve quality in health care and for performance-based payments that are based on accepted clinical performance measures that improve the quality of health care.

The goal of this fund is to allow for legislation to create a program through which incentives would be provided in the initial years of the program to encourage health care providers to enhance their use of information technology and improve quality. The fund would achieve deficit neutrality through the savings that will accrue to public programs through better use of information technology and higher quality care. The reserve fund thus requires deficit neutrality over the 5 years of the budget resolution.

It was the intent of all those Members who worked on this proposal to require the program to achieve deficit neutrality over the 5 years of the budget resolution, but not to require deficit neutrality in the initial year of the program or, on a year-by-year basis, in subsequent years. I ask the distinguished chairman of the Budget Committee whether what I have just described reflects their understanding of the intent of the program to be established in accordance with this reserve fund.

Mr. GREGG. Mr. President, the description of the intent of the reserve fund that my colleague from Massachusetts just provided also reflects my understanding and intent in supporting the inclusion of this fund. I believe the intent of the reserve fund would be satisfied by legislation reported by the HELP Committee or the Finance Committee that is not deficit neutral in the initial year or any other single year during fiscal years 2006 to 2010 but that otherwise complies with the conditions of the reserve fund. I do not intend to raise or support a budget point of order raised against such legislation on the basis that it is not deficit neutral in any particular year during fiscal years 2006–2010.

Mr. BAUCUS. Mr. President, the description of the intent of the reserve fund offered by my colleagues from Massachusetts and from New Hampshire also reflects my understanding of the intent of including this fund in the budget resolution. I commend the chairman and ranking member of the Budget Committee for their leadership in including this reserve fund in the Senate budget resolution. And I commend my colleagues from New Hampshire and Massachusetts and others for their willingness to work toward this signal of our bipartisan commitment to improving the quality and safety of health care in this country, and to addressing the problem of health care costs. These are critically important issues facing our nation today, and I look forward to continuing our bipartisan dialogue, making the best use of this important reserve fund, and working together on legislation to encourage the adoption of health information technology for quality improvement and to develop performance-based payment systems.

AMENDMENT NO. 204

Mr. BYRD. Mr. President, I voted in support of Senator SMITH's amendment to strike $14 billion in Medicaid cuts from the budget resolution and instead create a bipartisan Medicaid commission to study how to best reform the program.

Sound policy—not arbitrary budget cuts—should be the driving force for strengthening and improving the Medicaid program. A Medicaid commission could help foster a much-needed dialogue about how to take prudent steps to make this critical safety net stronger and sustainable in the long term.

More than 40 million Americans, including 300,000 West Virginians, rely on Medicaid. In West Virginia, the health care safety net—comprised of hospitals, nursing homes, home health agencies, physician offices, and community health centers—relies heavily on Federal Medicaid funding to care for the poor, disabled, and elderly.

If Medicaid funding is capped at an arbitrary funding level, states, such as West Virginia, will be left to shoulder the burden of increasing health care costs on their own. The health care needs of low-income people do not magically disappear just because there are fewer federal funds made available.

It is my hope that a bipartisan consensus of policies can be reached to best address the challenges confronting the Medicaid program. The passage of the Smith Amendment to establish a Medicaid commission is a constructive first step toward that goal.

AMENDMENT NO. 216

Mr. KERRY. Mr. President, on January 20, 2005, President Bush said in his Inaugural speech, ''We will widen the ownership of homes and businesses. . . .'' Two weeks later he turned around and submitted a budget that cut funding for the only agency dedicated to cultivating small business ownership in this country, the Small Business Administration. How much did he cut? 20 percent. This is nothing new. The President's track record is even worse. Since President Bush took office in 2001, he has reduced small business resources available through the SBA by 36 percent, the most of any government agency. You may not think the SBA is important, but, last year alone, through the SBA, more than 88,000 small businesses in this country got loans and venture capital, totaling more than $21 billion. A lot more than that, 1.5 million, turned to the SBA and its partners last year for management counseling so that they could start a business, keep their doors open, or expand their business. Think of the SBA next time you get ice cream from Ben & Jerry's, see a mother with a ''boppy'' baby pillow, take a road trip and see a Winnebago, send a package Federal Express, type on an Apple computer, or swing a Callaway golf club. All these companies were helped by the SBA. Where would these companies have been when they were shut out from financing if the SBA had not existed? Imagine the void in our economy without the taxes they generate and all the people without jobs if those companies didn't exist. SBA more than pays for itself.

The SBA is a good return on the investment for our country. As my colleague from Maine, Senator SNOWE, pointed out at our recent hearing on the SBA's fiscal year 2006 budget, the SBA's budget represents less than 3/100ths of a percent of all Federal spending. And a lot of that funding for the SBA supports emergency loans that help families and businesses when disaster strikes. We are all for fiscal responsibility, but cutting this resource that is so important to our economy is not responsible. Instead of weakening this resource, we should be maximizing it to leverage more businesses and creating more jobs.

Evidently my colleagues agree because tonight they agreed unanimously to adopt a bi-partisan amendment to restore $78 million to the SBA's budget for fiscal year 2006. Senator SNOWE and I both had our own amendments, but in the end we joined together so that we could get a win for small business. I thank the Chair for her cooperation and leadership.

My amendment would have restored $139 million to the SBA, including $42 million in fee relief for borrowers and lenders in the 7(a) Loan Guarantee program; $30 million for microloans and $20 million for microloan technical assistance; $5 million for PRIME; $24 million to restore funding New Markets Venture Capital that was unfairly and unwisely rescinded; $3.6 million for 7(j) contracting assistance to disadvantage small businesses; $2 million for Native American Outreach; $109 million for Small Business Development Centers; a combined $4 million for SBIR FAST and Rural Outreach; $7 million for SCORE; $5 million for the U.S. Export Assistance Centers; $2 million for Veterans Business Outreach; $16.5 million for Women's Business Centers; and $6.5 million for 65 procurement center representatives. That would have raised SBA's funding to $732 million, still far less than the $900 million provided to the SBA 5 years ago. It was a responsible and reasonable increase.

Nevertheless, to get things done, we must reach across the aisle and work together. So, as I said earlier, I joined my colleague of the Small Business and Entrepreneurship Committee, Chair SNOWE, to pass Senate amendment No. 216. It did not go as far as I would have liked, but it is still a big step in the right direction. As part of the compromise, Senator SNOWE agreed to include $5 million for the PRIME micro business program. The Snowe-Kerry compromise includes: $15 million for Microloan Technical Assistance, which the President recommended terminating; $1.91 million to fund $20 million in microloans, which the President recommended terminating; $5 million for the Program for Investment in Microentrepreneurs, PRIME, which the President recommended terminating, $3 million for the Small Business Innovation Research, SBIR, FAST Program, which the President recommended terminating; $1 million for the SBIR Rural Outreach Program, which the President recommended terminating; $21 million for Small Business Development Centers, increasing funding to $109 million overall; $10 million to fund procurement center representatives, PCRs, in order to hire 100 new representatives; $7.7 million for the HUBZone program, increasing funding to $10 million; $4.5 million for the Women's Business Centers Program, increasing funding to $16.5 million; $3.5 million for U.S. Export Assistance Centers, increasing funding to $5 million; $2 million for the SCORE program, increasing funding to $7 million; $750,000 for Veterans Outreach, increasing funding to $1.5 million; and $500,000 for the 7(j) contracting assistance program, increasing funding to $2.5 million.

These amounts are important to include in the RECORD so that the public knows our intentions. I thank my colleagues, Senators SNOWE, CONRAD, and GREGG, for their help and also their staffs. In advance, I ask my colleagues on the appropriations committee to match our requests.

AMENDMENT NO. 169

Mr. SANTORUM. Mr. President, the HIV/AIDS pandemic has reached staggering proportions. At the end of 2004, an estimated 40 million people were living with HIV/AIDS. Each year, 5 million more people become infected.

The United States has demonstrated important leadership fighting the AIDS epidemic. And this leadership is yielding results. At the end of 2004, an estimated 700,000 people in the developing world were receiving antiretroviral therapy. Many of these individuals were receiving treatment thanks to U.S.-supported bilateral and multilateral programs.

The President's budget request for fiscal year 2006 includes $2.9 billion for bilateral programs for AIDS, tuberculosis, and malaria. This amendment would maintain full funding for this component of the President's request.

The Global Fund to Fight AIDS, tuberculosis, and malaria is an important component of U.S. efforts, and supports approximately 300 projects in 130 countries. The United States was the first and remains the largest contributor to the Global Fund.

To balance the U.S. share and encourage contributions from other donors, the administration supported language in the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that links U.S. contributions to the Fund to the contributions of other donors.

Together with Senator DURBIN, I believe Congress should fulfill the commitment implied in the act by matching, on a one-to-two basis, the contributions of other donors. Through a mid-year review process, Congress and the administration should assess anticipated contributions to the Global Fund and ensure that U.S. contributions, at year-end, are at the appropriate one-to-two ratio, and that the U.S. does not exceed 33 percent of total contributions to the fund.

For fiscal year 2005, the Global Fund estimates it will renew $2.4 billion worth of effective programs that are already operating on the ground. The administration and the Global Fund Board have said that renewing existing grants should receive funding priority.

In order to cover one-third of renewals during fiscal year 2006, and to maintain the one-to-two funding match, the U.S. will need to contribute an additional $500 million above the President's request to keep well-functioning programs funded at a level of $800 million.

Senator DURBIN and I consider this number to be the necessary level of funding. Failing to renew grants could cut off life-saving treatments in proven programs.

Senator DURBIN and I firmly believe that funding the global fight against AIDS is a top priority. If adopted by the Senate, this amendment will ensure a level of $3.7 billion for international AIDS, tuberculosis, and malaria assistance, including $800 million for the Global Fund.

AMENDMENT NO. 238

Mr. LEVIN. Mr. President, for the second year in a row, the President proposes to completely eliminate the Advanced Technology Program, ATP. Last year, Congress wisely chose to

fund the ATP program at $142.3 million. The bottom line is that the ATP promotes the development of new, innovative products that are made and developed in the United States, helping American companies compete against their foreign competitors and contribute to the growth of the U.S. economy.

I hope Congress will continue to fund this important program in fiscal year 2006. Doing so will help strengthen the technological and economic leadership of America's high technology manufacturing companies that is necessary for them to remain competitive in today's global marketplace. It will also help ensure that the most cutting-edge companies can continue to innovate, expand and create jobs.

My amendment expresses the sense of the Senate calling on the Senate Committee on Appropriations to make every effort to restore funding for the Advanced Technology Program in fiscal year 2006.

Continued ATP funding would encourage public-private cooperation and investment in economically important technology R&D. Through a cost-shared program, the ATP provides grants to support research and development of high-tech, cutting-edge technologies with commercial potential and societal benefits. The ATP focuses on improving the competitiveness of American companies and funds many research and development projects that have the potential to create broad-based U.S. economic benefits and that otherwise may not get developed or that would be developed too slowly to take advantage of market opportunities.

According to one study, the manufacturing sector, more than any other, helps to generate increased economic activity in other industries with every dollar of goods produced generating an additional $1.43 in economic activity in other industries or sectors.

According to the U.S. Department of Commerce, returns for the American people on the ATP, as measured from 41 of the 736 projects—just 6 percent of the portfolio—have exceeded $17 billion in economic benefits, more than eight times the amount invested in ATP.

Manufacturers' investment in innovation account for almost two-thirds of all private-sector research and development. This investment in turn leads to advances in other manufacturing sectors and spillover into nonmanufacturing activities in the United States.

ATP involvement accelerates the development and commercialization of new technologies. Time to market was reduced by 1 year in 10 percent of projects, by 2 years in 22 percent of projects, and by 3 years in 26 percent of projects.

The ATP program supports small business. Over 65 percent of ATP projects have been led by small businesses. This is exceptional given that small businesses lead in the creation of job growth and new technology advancement in our country.

ATP has received applications from 50 States and made awards to high technology businesses in 40 States plus the District of Columbia.

The Biotechnology Industry Organization, BIO, the Industrial Research Institute, the Alliance for Science and Technology Research in America, and the American Chemical Society have expressed support for ATP.

Unfortunately, current funding levels do not meet the demand for ATP. Over 1,000 proposals submitted in 2002 alone yielded enough high quality projects to absorb the total funding available in both fiscal year 2002 and fiscal year 2003. Fiscal year 2004 saw the second highest number of applications for funding in ATP history, 870, but funding was available for only 59 awards.

The ATP is one of the few Federal programs available to help American manufacturers remain competitive in the global economy. This high octane economic development engine should be supported by Democrats and Republicans alike. If we want NIST to continue making these important job-creating ATP awards, we have to fund it.

According to the Bureau of Labor Statistics, nationally we have lost nearly 2.8 million manufacturing jobs since January 2001. In the face of these losses and strong global economic competition, we should be doing all we can to promote programs that help create jobs and strengthen the technological innovation of American companies. Supporting the ATP program is one way to do this.

AMENDMENT NO. 253

Mr. BAUCUS. Mr. President, I rise today to speak to an amendment with my good friend and colleague, Senator GRASSLEY, expressing the sense of the Senate on the High Intensity Drug Trafficking area, or HIDTA, program. My amendment assumes that the HIDTA program will be fully funded at $227 million in fiscal year 2006 and that the HIDTA program will remain with the Office National Drug Control Policy, ONDCP, where it was last authorized by Congress to be. Additional cosponsors are Senators LEAHY, BINGAMAN, MURRAY, and TALENT. I would also like to add Senators GORDON SMITH and DEWINE as cosponsors to this amendment. I thank my colleagues for their strong support.

I am proud to offer this much-needed amendment. The proposed budget would cut the HIDTA program by 56 percent, assuming only $100 million for HIDTA. The President's Budget also proposes to shift the program from ONDCP to the Organized Crime Drug Enforcement Task Force program within the Department of Justice. Both of these proposals could derail the highly successful HIDTA program.

As many of my colleagues know, methamphetamine is a powerful and highly addictive central nervous system stimulant that is associated with violence and crime. It can cause paranoia, aggression, and mood swings. The byproducts of making meth are highly toxic and flammable and require costly clean ups. They also endanger many children who are exposed when their parents cook meth within the home. Since its inception in 1990, HIDTA has become one of the most effective and comprehensive programs we have to fight meth.

Specifically, a HIDTA designation provides states like Montana with increased resources, information and intelligence to fight methamphetamine use and production. The Federal funding and increased cooperation among Federal, State and local law enforcement frees up state resources that allow, for example, the Montana Department of Justice to better support Montana's rural communities. It provides law enforcement officials with new technology to coordinate their efforts at the local, State, and Federal level.

Montana fought hard and successfully to join the Rocky Mountain HIDTA in 2002. Since that time, Montana has successfully cut the number of meth labs it busts in half. I have been told by law enforcement across my State that the proposed cuts to HIDTA, combined with cuts proposed by the President to other Justice assistance programs like the Byrne and COPS programs, would be a disaster for Montana. It would effectively end drug enforcement in rural Montana and would set the clock back years in our efforts to fight the rapid spread of meth in our state.

Yesterday, I was proud to cosponsor and support Senator STABENOW's amendment to restore funding for our first responder programs, Byrne and COPS. Sadly, that amendment failed. I also proudly supported Senator BIDEN's amendment to fully fund the COPS program. That amendment unfortunately also failed. We must do everything we can to make sure these programs survive and so far Congress is not holding up their end of the bargain.

Although my amendment specifically focuses on the HIDTA program, let me list again what the Montana Board of Crime Control has told me would happen to Montana if the President's fiscal year 2006 budget is enacted:

1. Montana will lose its multi-jurisdiction drug enforcement capacity, including seven multijurisdictional drug task forces. This means that already stretched local law enforcement agencies will have to do what they can to address drug enforcement at the local level, without broader support from the drug task forces.

2. Montana will lose 33 drug enforcement offices throughout the State.

3. Montana will experience a significant increase in drug availability, manufacturing and trafficking and drug-related crime.

4. Montana would experience an increase in clandestine labs that manufacture methamphetamine.

5. Montana would experience a reduction in the amounts of illegal drugs and guns removed from our communities.

6. Montana would experience the elimination of funds for rural law enforcement agencies' manpower, equipment and training.

Again, the above scenario is only the tip of the iceberg. The manufacturing, trafficking, drug addiction and crime will have a ripple effect throughout the State in our public health and correction systems and the courts, negatively affecting public safety and the quality of life in Montana and across the United States.

As the findings in the Baucus-Grassley amendment explain, the HIDTA program encompasses 28 strategic regions, 355 task forces, 53 intelligence centers, 4,428 Federal personnel, and 8,459 State and local personnel. In 2004, HIDTA efforts resulted in disrupting or dismantling over 509 international, 711 multi-State, and 1,110 local drug trafficking organizations. In 2004, HIDTA instructors trained 21,893 students in cutting-edge practices to limit drug trafficking and manufacturing within their areas.

The HIDTAs are successful drug enforcement coalitions that include equal partnership among Federal, State, and local law enforcement leaders. This is what Congress created the HIDTA's to do—to provide coordination of drug enforcement efforts in critical regions of the country. That's why full funding for the HIDTA's is so important, and that's what the first part of the Baucus-Grassley sense of the Senate addresses—assuming that Congress will fully fund the HIDTA program at fiscal year 2005 levels.

The second part of the Baucus-Grassley Sense of the Senate on HIDTA would address the administration's decision to shift the HIDTA program from ONDCP to the Organized Crime Drug Enforcement Task Force, OCDETF, program within the Department of Justice. Moving the program from ONDCP to OCDETF is a mistake. The OCDETF program has a different mission and purpose than ONDCP and the HIDTA's. The HIDTA program has worked well at ONDCP and is a complement to the OCDETF mission. I do not understand why the Administration would want to shift it from its Congressionally authorized home within ONDCP.

Montana law enforcement tell me that moving the HIDTA program to OCDETF will do nothing to improve law enforcement capabilities and will undermine the unique partnerships and innovation that the HIDTA program has helped to create nationwide and that have been so successful in curbing the spread of meth in Montana. HIDTA's are about coordination and collaboration. OCDETF is more centrally managed, with an assumed Federal lead, and with a focus on investigation and prosecution—an important mission, but not the same as the HIDTA mission. Additionally, according to the National Narcotics Officers Association, the vast majority of OCDETF's cases originate within HIDTA funded operational task forces. The current organization works; why change it?

I urge my colleagues to support this important amendment. I also hope that we can adopt one of the many amendments that would actually increase funding for all Justice assistance programs, like Byrne and COPS, but this amendment is an important step in the right direction.

AMENDMENT NO. 193

Mr. DODD. Mr. President, it had been my intent to offer an amendment No. 193, to S. Con. Res. 18, the FY 06, Congressional Budget Resolution, to fully fund the Help America Vote Act, HAVA, P.L. 107–252, by increasing discretionary spending in FY 06 by $822 million. This issue is too important, however, to be relegated to 30 seconds, or less, of debate, and so under the circumstances, I will not offer this amendment to fully fund HAVA today.

However, I want to serve notice to my colleagues, that Congress must act soon to provide funds to the States to finance the mandatory election reform requirements we imposed on the States in HAVA. If not, we will have created an unjustified and unfunded mandate on State and local governments and lost the opportunity to ensure that every eligible American voter has an equal opportunity to cast a vote and have that vote counted in the 2006 Federal elections.

The amendment was supported by a broad coalition of organizations representing the civil rights communities, voting rights groups, disabilities groups, and State and local governments, spearheaded by the Leadership Conference on Civil Rights and the National Association of Secretaries of State. I am grateful to LCCR and NASS for their consistent leadership in ensuring that Congress, and the President, fulfill our commitment to fully fund the HAVA reforms. I applaud the non-partisan work of the LCCR/NASS Coalition and look forward to continuing to work with them to see this commitment come to fruition.

No civil right is more fundamental to the vitality and endurance of a democracy of the people, by the people, and for the people, than the people's right to vote. In the words of Thomas Paine, ''The right of voting for representatives is the primary right by which other rights are protected.'' To ensure this right, Congress passed the bipartisan Help America Vote Act. At a time when we are spending millions of dollars to ensure the spread of democracy across the globe, we must also remember that building democracy and freedom for every American must begin at home. Ensuring that primary right to vote for all eligible American voters was the bipartisan goal of HAVA.

Nearly two and one-half years ago, the Senate overwhelmingly passed this bipartisan landmark legislation and on October 29, 2002, President Bush signed HAVA into law. At the White House signing ceremony, surrounded by a bipartisan group of Members, President Bush said in a brief speech, ''When problems arise in the administration of elections, we have a responsibility to fix them . . . Every registered voter deserves to have confidence that the system is fair and elections are honest, that every vote is recorded and that the rules are consistently applied. The legislation I sign today will add to the nation's confidence.''

I could not agree more with the President. However, for the second year in a row, while the President's budget assumes millions in funding for democratic elections in foreign countries, the President's budget assumes no funding for elections at home. Our shared bipartisan vision for HAVA as the vehicle to restore the nation's confidence in the results of our elections cannot be realized without the promised funding to the States.

In the aftermath of historic elections in Iraq, it is critical that America take stock of our own decentralized elections systems. There is much we can learn from the Iraqi experiment in democracy that can strengthen the equal opportunity for participation of all Americans in our democracy. In light of the continuing barriers that Americans found at polling places across this Nation in November 2004, we cannot fail to fully fund HAVA. America's ability to promote free societies abroad is inextricably linked to our ability to promote, expand and secure Federal elections at home.

HAVA has been acknowledged as the ''first civil rights law of the 21st century.'' For the first time in our Nation's history, Congress acknowledged the responsibility of the Federal government to provide leadership and funding to States and local governments in the administration of Federal elections. Congress required States to conduct Federal elections according to minimum Federal requirements for provisional balloting, voting system standards, and statewide voter registration lists, including new requirements to prevent voter fraud. Finally, Congress refused to impose an unfunded mandate on States by authorizing nearly $4 billion in payments to States over three fiscal years to implement the HAVA requirements and disability access services.

To date, Congress has appropriated over $3 billion for these purposes and States are currently in varying stages of implementing HAVA requirements to meet the pending 2006 effective date. But Congress has failed to fully fund HAVA and as a consequence, there remains a $822 million shortfall in Federal funds. In addition to the $600 million authorized in FY 05, but not appropriated, Congress has underfunded HAVA by an additional $222 million for a total of $822 million.

To remedy this, the amendment I intended to offer would have increased function 800 by $727 million in BA in FY 06 for election reform requirements

payments to the States, and increased function 500 by $95 million in BA in FY 06 to fund election reform disability access payments to the States. The amendment was fully offset by adjusting the reconciliation savings assigned to the Finance Committee in order to allow for the closing of corporate tax loopholes and provided additional deficit reduction in an equivalent amount in the amount of $822 million.

The absence of these funds will at best impede, or at worst stop, statewide election reforms for the 2006 Congressional elections, the 2008 Presidential elections, and beyond. According to a letter issued by the LCCR/NASS Coalition in support of my amendment, State and local governments cannot enact the requirement reforms on time without full Federal funding. The coalition letter states, in pertinent part: ''Without full federal funding, state and local governments will encounter serious fiscal shortfalls and will not be able to afford complete implementation of important HAVA mandates.''

Similarly, the National Association of Counties, NACO, in a letter dated March 17, 2005, noted that a recent NACO report ''demonstrates that the funds counties have received so far for implementation of the Help America Vote Act are clearly insufficient.'' The letter goes on to conclude that HAVA has ''clearly become an unfunded mandate on the nation's counties.''

Some have expressed concerns that States do not need additional Federal funding, nor should Congress appropriate additional funding, because States still have millions in unspent HAVA funding. This argument is contrary to both the law and the facts. As a matter of law, HAVA does not require States to spend Federal funding by a date-certain within any fiscal year. To the contrary, HAVA merely requires States to comply with specific Federal requirements by certain effective date deadlines, depending upon the timing of the first Federal election in that State. Since the time, place and manner of Federal elections may differ from state to state, HAVA accommodates the diversity of state circumstances by ensuring that States could retain Federal funding without making premature obligations or expenditures and without threats of a Federal recoupment of such funds.

Similarly, HAVA did not mandate a ''one-size'' fits all approach to how States will implement the HAVA requirements or other election reforms. As a result, HAVA contains a savings clause requiring that Federal funds remain available until expended pursuant to 42 USC 15462. As a matter of fact, while some States have unspent HAVA dollars today, it is also a fact that all States are in varying degrees of compliance with HAVA, including enacting state implementing legislation, establishing certain processes such as administrative complaints procedures, contacting or obligating funds for new or retro-fitted voting systems, or otherwise enhancing any number of election-related programs and procedures to improve state-based election administration. At this time, there does not appear to be any State that is fully compliant with HAVA and that also has a significant surplus of funds.

Moreover, the most important requirements in the Act do not have to be implemented by the States until the first Federal elections on or after January 1, 2006. Also, because of the delay in the issuance of the voluntary voting system standards by the Election Assistance Commission, some States have delayed purchases of voting systems and technology until that guidance is issued. Consequently, such States have unexpended funds.

However, that does not lessen the critical need for full funding in fiscal year 2006. Although the FY 06 funds will not be available to the States until October 1, 2005, just 3 months before some States must have these requirements in place, States will be able to issue contracts, obligate funds for programs, and otherwise fully implement real election reforms if Congress signals its intent to provide these necessary funds.

After the concerns raised by the November 2000 general election, Congress made a commitment to the States, and to the voters of this Nation, that we would be a full partner in the conduct of Federal elections. While Congress accomplished much with the passage of HAVA, 4 years later in the November 2004 general election, voters faced many of the same barriers in different forms and new barriers to voting that HAVA promised to remove. After the 2000 November elections, Americans recognized that real election reform changes must be made to ensure the integrity and security of our democracy. We can do better and we must do better. Full Federal funding is critical to ensuring that America will do better.

HAVA began a new era in election law—one where the Federal Government is a supporting partner to help State and local governments, in conjunction with civil rights, voting rights and disability rights organizations, to conduct fair, free and transparent elections in our Nation. HAVA is our collective promise to the American people to fix the problems in our Federal elections.

If we fail to honor our commitment now and provide the States with only partial funding, we may jeopardize the opportunity of the States to implement the most historic and comprehensive election reforms in American history and may ensure that the public's confidence was misplaced in Congress. Full Federal funding is critical to ensuring the integrity and security of Federal elections and the confidence of the American people in the final results of those elections.

It is time to fulfill that promise and we must do so yet this year.

I ask unanimous consent that a letter issued by the coalition of organizations spearheaded by the Leadership Conference on Civil Rights and the National Association of Secretaries of State dated March 8, 2005 and a letter issued by the National Association of Counties, dated March 17, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAKE ELECTION REFORM A REALITY; FULLY FUND THE ''HELP AMERICA VOTE ACT''

DEAR SENATORS: We, the undersigned organizations, urge you to support full funding for the Help America Vote Act of 2002 (HAVA) and include $822 million in the upcoming FY06 Senate Budget Resolution. This figure represents the authorized HAVA funds that remain unappropriated.

HAVA, which passed with overwhelming bipartisan support, includes an important list of reforms that states must implement for federal elections. State and local governments have been working on such reforms as improving disability access to polling places, updating voting equipment, implementing new provisional balloting procedures, developing and implementing a new statewide voter registration database system, training poll workers and educating voters on new procedures and new equipment.

To help state and local governments pay for these reforms, HAVA authorized $3.9 billion over three fiscal years. To date, Congress has generously appropriated $3 billion between FY03 and FY04. Unfortunately, while HAVA authorized funding for states for FY05, none was appropriated. The states and localities need the remaining authorized funding to implement the requirements of HAVA, and the federal EAC needs to be fully funded to carry out its responsibilities as well.

States and localities are laboring to implement the requirements of HAVA based on a federal commitment that HAVA would not be an unfunded mandate. State officials have incorporated the federal amounts Congress promised when developing their HAVA implementation budgets and plans. Without full federal funding, state and local governments will encounter serious fiscal shortfalls and will not be able to afford complete implementation of important HAVA mandates. According to a state survey, lack of federal funding for HAVA implementation will result in many states scaling back on their voter and poll worker education initiatives and on voting equipment purchase plans, both of which are vital components to making every vote count in America.

We are thankful that you have seen the importance of funding the work of the Election Assistance Commission in FY06. States, localities and civic organizations look forward to the work products from the EAC that will aid in the implementation of HAVA, e.g., voting system standards, statewide database guidance, and studies on provisional voting, voter education, poll worker training, and voter fraud and voter intimidation.

We thank you for your support of funding for the Help America Vote Act, and we look forward to working with you on this critical issue. Should you have any questions, please contact Leslie Reynolds of the National Association of Secretaries of State at (202) 624–3525 or Rob Randhava of the Leadership Conference on Civil Rights at (202) 466–6058, or any of the individual organizations listed below.

Sincerely,

Organizations Representing State and Local Election Officials

Council of State Governments.

International Association of Clerks, Recorders, Election Officials and Treasurers.
National Association of County Recorders, Election Officials and Clerks.
National Association of Counties.
National Association of Latino Elected and Appointed Officials Educational Fund.
National Association of Secretaries of State.
National Association of State Election Directors.
National Conference of State Legislatures.

Civil and Disability Rights Organizations

Advancement Project.
Alliance for Retired Americans.
American Association of People with Disabilities.
American Federation of Labor—Congress of Industrial Organizations.
Asian American Legal Defense & Education Fund.
Asian Pacific American Labor Alliance, AFL–CIO.
Asian Pacific American Legal Center.
Association of Community Organizations for Reform Now.
Brennan Center for Justice at NYU School of Law.
Common Cause.
Dēmos: A Network for Ideas & Action.
FairVote: The Center For Voting and Democracy.
Hadassah, the Women's Zionist Organization of America.
Jewish Council for Public Affairs.
Lawyers' Committee for Civil Rights Under Law.
Leadership Conference on Civil Rights.
League of Women Voters.
NAACP Legal Defense & Educational Fund, Inc.
National Asian Pacific American Legal Consortium.
National Association for the Advancement of Colored People.
National Coalition on Black Civic Participation.
Project Vote.
Public Citizen.
United Auto Workers.
United States Student Association.
U.S. Public Interest Research Group.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 17, 2005.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.
Hon. BOB NEY,
House of Representatives, Washington, DC.
Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.
Hon. STENY HOYER,
House of Representatives, Washington, DC.

DEAR SENATORS MCCONNELL AND DODD AND REPRESENTATIVES NEY AND HOYER: On behalf of county officials across the nation, I would like to reiterate our appreciation for your efforts on behalf of counties in the development of the Help America Vote Act of 2001. As you remember, NACo and other organizations representing state and local government officials supported the Help America Vote Act based on an assumption that the federal government would meet numerous deadlines set forth in the legislation and would provide the full authorized level of funding. Thanks to your leadership, sufficient funding was provided in fiscal years 2003 and 2004. However, no funds were provided for FY 2005 and total funding for the Help America Vote Act remains more than $800 million short of the authorized amount.

Attached is an excerpt from a recent report of the National Association of Counties that demonstrates that the funds counties have received so far for implementation of the Help America Vote Act are clearly insufficient. This excerpt, from a recent snapshot survey conducted by the National Association of Counties on the costs that counties have identified for compliance with unfunded federal mandates, shows that the Help America Vote Act has clearly become an unfunded mandate on the nation's counties.

This funding shortfall is a particular burden for counties because the federal government did not live up to its commitment to issue federal voting systems standards by January 1, 2004. These standards are not expected until later this year; the delay is creating uncertainty surrounding compliance with HAVA and is driving up costs for many counties. We look forward to working with you and your staff to secure additional funding and assist counties in meeting the deadlines in the Help America Vote Act.

Sincerely,

LARRY NAAKE,
Executive Director.

EXCERPT FROM UNFUNDED MANDATES: A SNAPSHOT SURVEY

A report issued in March 2005 by the National Association of Counties based on a snapshot survey conducted during a two-week period from January 26 through February 11, 2005. The full report provides a snapshot of the continuing unfunded mandates burden facing counties on the tenth anniversary of the Unfunded Mandates Reform Act.

HELP AMERICA VOTE ACT

The Help America Vote Act requires most counties in the nation to purchase new voting equipment that permits all voters to cast a secret ballot regardless of disability. The accelerated timetable nationwide and lack of federal standards are driving up the cost for counties to purchase equipment. In addition, counties are working in cooperation with the states to merge existing voter registration databases into a statewide list and to implement new voting procedures, such as provisional ballots.

Thirty six provided information on their costs related to the Help America Vote Act. The counties who responded represent a broad mix of states that have moved forward with reform, those that are nearing compliance and those have not yet budgeted for or issued contracts on voting equipment. Some of the figures that counties provided below do not include the full cost of purchasing voting equipment:

	2003	2004	2005	Population
Cochise County, AZ	$53,626.00	$48,390.00	$36,090.00	122,161
Butte County, CA	40,000.00	850,000.00	2,000,000.00	212,010
Colusa County, CA	3,050.00	9,590.00	46,350.00	19,678
Kern County, CA	5,000,000.00			713,087
Mesa County, CO	19,535.00	157,700.00	124,676	
Brevard County, FL		43,000.00	2,442,500.00	505,711
Escambia County, FL		344,663.00		295,886
Lee County, FL	6,200,000.00	100,000.00	300,000.00	492,210
Polk County, IA		20,000.00	750,000.00	388,606
Scott County, IA		3,500.00	200,000.00	159,414
Idaho County, ID	34,480.00	36,560.00	36,560.00	15,413
Hamilton County, IN			25,000.00	216,826
Lake County, IN			2,120,900.00	487,476
Sedgwick County, KS	44,700.00	29,600.00	29,350.00	462,896
Calvert County, MD		9,300.00	77,158.00	84,110
Anoka County, MN		793,178.00		314,074
Blue Earth County, MN		55,000.00	56,650.00	57,306
Durham County, NC			5,000.00	236,781
Gaston County, NC			21,441.00	193,097
Northhampton County, NC			8,000.00	21,782
Richland County, ND		2,522.00		17,598
Rolette County, ND		7,931.77	0.00	13,732
Ward County, ND		22,225.00	2,825.00	56,721
Williams County, ND	2,368.38	17,757.27	5,000.00	19,316
Clark County, NY		997,566.00	131,825.00	1,576,541
Clermont County, OH			7,110.00	185,799
Montgomery County, OH		300,000.00	2,000,000.00	555,187
Chester County, PA	1,168,935.00	8,208,611.00	1,648,480.00	457,393
Monroe County, PA	10,000.00	44,000.00	45,000.00	154,495
County of Gloucester, VA	1,785.00	1,788.00	58,788.00	36,698
Fairfax County, VA	184,388.00	194,092.00	203,797.00	1,000,405
Prince George, VA		6,783.00	7,340.00	34,305
Kitsap County, WA		8,768.00		240,719
Greenbrier, WV			490,000.00	34,656
Monongalia County, WV		4,000.00		84,370

The highest cost was reported by Chester County, Pennsylvania, which spent in excess of $8 million of its own source revenue on HAVA compliance in FY 2004. Over the three-year period, the total cost for a family of four in Chester County is $96.42. Idaho County, Idaho, is spending $27.92 per family of four. Greenbrier County, West Virginia, is spending $56.56 per family of four in FY 2005. Montgomery County, Ohio, is spending $2.3 million for FY 2004–FY 2005, or $16.57 per person. Taxpayers in Butte County, California, are spending $54.53 per family of four to update their voting equipment over the three-year period and voters in Lake County, Indiana are paying $17.40 per family in FY 2005.

Notes and additions to the data:

Henrico County, Virginia has subsequently reported county funding for FY 2004 of $805,000 for the purchase of new voting equipment. The federal share of the total is $650,000; the state is providing $2 million. The registrar's office also anticipates spending $307,141 in the operating budget for FY

2005 for costs associated with the new voting machines.

The following explanations from individual counties are likely typical of county costs reported in the snapshot survey:

Scott County, Iowa has explained that their data includes $3,500 is a rough estimate of staff time used in the planning process that has not been reimbursed by state or federal funds. The $200,000 figure for FY 2005 is an estimate of the county share of the cost of new machines and software net of federal and state funds.

Polk County, Iowa has indicated that their figure for FY 2004 is associated with administrative costs such as reprinting forms. The figure for FY 2005 represents the county cost, less federal and state reimbursements, for the purchase of accessible voting equipment.

Clermont County, Ohio, has indicated that none of their reported costs are for the actual purchase of equipment. The entire figure is for administrative labor and travel associated with review of proposed equipment except for $300 for printing and processing of provisional ballots.

AMENDMENT NO. 253

Mr. GRASSLEY. Mr. President, I am pleased to rise today and join Senator BAUCUS and our colleagues in offering this Sense of the Senate resolution calling for full funding of the High Intensity Drug Trafficking Areas program.

In all areas the President proposes and Congress disposes, and the budget is no different. While I support the President's efforts to control Federal spending to address the budget deficit, I have concerns about how some of his proposals would affect law enforcement efforts to identify, arrest, and prosecute drug trafficking organizations selling their poison to our kids and grand kids. I think it is critically important that we not hinder their ability to protect citizens, especially from the dangers of drugs.

In particular, the proposal to transfer to the Department of Justice and reduce the funding for the High Intensity Drug Trafficking Areas program—also known as the HIDTA program—would have a major impact on drug enforcement efforts. With the continued growth of meth in Iowa and throughout the Midwest, we cannot afford to reduce programs designed to increase cooperation and coordination. Just as modem technology allows our businesses and our citizens to freely move around the country, the criminal element within the United States can take advantages of these same opportunities. That's why it is essential that they be able to work together, across jurisdictions, so that our laws against drug trafficking can be effectively enforced.

Congress provided the Office of National Drug Control Policy with the responsibility for the management—and effectiveness—of the High Intensity Drug Trafficking Areas program. For a relatively modest investment, Federal, State, and local law enforcement have tremendously benefitted from the increased information sharing and improved coordination that HIDTAs create. The task forces created through the HIDTA program can serve as models for initiatives against terrorism, money laundering, and other modem threats to civil society.

This amendment is consistent with the views expressed by the Budget Committee. It is consistent with the views expressed in the legislation introduced last year to reauthorize the Office of National Drug Control Policy.

I hope that all of our colleagues will join us in supporting this amendment.

AMENDMENT NO. 197

Mr. DEWINE. Mr. President, I rise today to join Senator ALLEN in urging the Senate to adopt budget language reinforcing our Nation's commitment to vital aeronautics research. For decades, the National Aeronautics and Space Administration has conducted a wide array of aeronautics research programs that have helped ensure our economic and military security and revolutionize the way we travel. NASA's work in aeronautics has captured the spirit of the Wright Brothers, spawning generation after generation of progress. The amendment before us, which I am cosponsoring, will help make certain that progress continues for many years to come.

Members of this body, including me, will fly to their home states later today or tomorrow when we have completed the budget, and when we do, we will benefit from countless innovations first developed in NASA aeronautics programs over the years—efficient jet engines, safe and secure air traffic control networks, advanced de-icing technologies, and so on.

The impact of NASA's work is indeed widespread. The U.S. aviation industry supports over 11 million jobs and contributes $1 trillion in economic activity. Our airlines carry 750 million passengers per year, with that number expected to grow to a billion within 15 years. We ship 52 percent of our exports by air, and in fact, the aviation industry contributes more to the U.S. balance of trade than any other domestic manufacturing industry.

Today we are at grave risk of losing the staff, facilities, and expertise necessary to continue the long history of NASA's aeronautics research programs. We are at risk of essentially allowing the first ''A'' in NASA—the one that stands for aeronautics—to die over the next several years. What a tragedy that would be for the traveling public, for our aviation industries, for our military, and really for our entire economy.

The budget we have before us does not contain specific references to aeronautics funding. Nonetheless, we know of NASA's plans for aeronautics from its fiscal year 2006 budget request. We know that the agency intends to reduce overall aeronautics funding by over 17 percent from fiscal year 2004, dropping another 12 percent by 2009. That is nearly one-third in just 5 years.

The cuts are even more severe within the ''vehicle systems'' account—the portion of NASA's aeronautics program that focuses on making aircraft safer, faster, quieter, more fuel efficient, and dynamic. NASA has announced its intention to cut over 28 percent of its budget in this area relative to fiscal year 2004, with plans to eventually cut even deeper in the out years. What will the practical consequences of these cuts be?

For starters, the cuts mean that all subsonic and hypersonic research will be terminated. This is the research that focuses on designing stronger airframes and better turbine engines—technologies that with just a little work can be taken from the lab and applied directly to functional aircraft, whether commercial or military. As a result, domestic aircraft and engine producers will lack the ability to draw on a body of solid pre-competitive research, while competitors abroad benefit from well financed efforts, such as the European Union's ''Vision 2020'' aeronautics program. Ultimately, the consequence may be the loss of our longstanding global leadership in civil aviation and all the economic benefits that flow from that leadership.

Second, many of the facilities necessary to design and test new aeronautics technologies will likely be closed as a result of budget shortfalls. Wind tunnels and propulsion test facilities are used by government, academia, and industry—often on a pay-for-use basis—and require minimal funding to maintain. A recent RAND National Defense Research Institute determined that over 84 percent of these NASA facilities serve strategic national needs, and concluded that the success of the U.S. aerospace industry ''relies on our workforce and test facility infrastructure . . . and will continue to need to predict airflow behavior over a range of designs.'' If we allow wind tunnels and propulsion labs to close, there will, in fact, be no way to serve these needs.

So these proposed aeronautics cuts are a double threat to the U.S. aviation industry: On the one hand, they get NASA out of the business of subsonic research, and on the other, they may well lead to the closure of the very facilities industry and academia would need to replace that research. There would, of course, be consequences for cross-cutting technologies used by the military and for the scores of Americans employed in these areas. On balance, the overall long-term impact would be devastating.

Instead of focusing on these subsonic and hypersonic aeronautics program areas, NASA intends to focus on ''barrier breaking'' flight demonstrations. These are exciting projects that involve UAVs and aircraft capable of quietly crossing the sound barrier, and they may pay off 15, 20, or 25 years down the road. By then, however, it could be too late for our aviation industry. The language offered by Senator ALLEN today addresses that fact head-on by restoring balance in NASA's aeronautics programs.

We need to step back and re-evaluate where we are with aeronautics research, where we want to be in 5, 10, 15

years, and make a commitment to do what it takes to get us there. A study specifically requested by Congress in the fiscal year 2004 omnibus appropriations bill mapping this course will be unveiled later this month by the National Institute of Aerospace. Just yesterday, the House Science Committee held an important hearing on the direction of aeronautics research.

There is movement on these issues, and we will have opportunities to define our goals as the year progresses. What Senator ALLEN is proposing to do is to say that we must keep all of our options open and our areas of expertise healthy until we are able to come to a conclusion between Congress, the administration, industry, academia, and really our Nation on what our direction will be. Senator ALLEN's language, in essence, ensures that our debate on how to approach aeronautics will not be over before it begins.

AMENDMENT NO. 220

Ms. COLLINS. Mr. President, the Lieberman-Collins amendment No. 220 provides $855 million to restore cuts to vital first responder programs in the Department of Homeland Security and the Department of Justice, and for port security grants. The amendment provides an additional $565 million for programs that support our first responders, including State homeland security formula grants, Urban Area Security Initiative grants, FIRE Act grants, SAFER grants, Emergency Management Planning Grants, and the Metropolitan Medical Response System. It would restore $140 million for community policing and local law enforcement efforts under the COPS and Byrne Grant programs. It would also provide $150 million for port security grants, ensuring at least the same amount of funding for the Nation's ports as last year.

AMENDMENT NO. 217

Mr. KOHL. Mr. President, I submitted an amendment to the budget resolution with Senator HATCH, Senator SPECTER, Senator BIDEN, Senator DEWINE, Senator LEAHY, and Senator BAUCUS to restore funding for juvenile justice and local law enforcement programs closer to last year's levels. Our amendment will increase funding for these programs funded by the Department of Justice by $500 million. Specifically, this money will add $173 million to the Office of Juvenile Justice and Delinquency Prevention, OJJDP, budget, $200 million for the Byrne Justice Assistance Grant Program and the COPS program, and $127 million to the High Intensity Drug Trafficking Area, HIDTA, program. The amendment accomplishes this by raising the functional total for the justice allocation by $500 million offset in function 920, which gives the Appropriations Committee the flexibility to design the exact offsets.

Let me briefly illustrate why we must put money back into these programs. Following the administration's lead, the Senate Budget Committee allocated $187 million to the OJJDP budget, which is about $173 million less than what we appropriated last year. I am particularly disturbed that the Senate budget resolution assumes complete elimination of the Juvenile Accountability Block Grant program, JABG, which received $55 million last year. JABG provides funding for intervention programs that address the urgent needs of juveniles who have had run-ins with the law.

The Budget Committee seems to feel that the JABG program is ineffective. An example from my home State of Wisconsin proves otherwise. Using Federal dollars from the JABG program, the Southern Oaks Girls School, a juvenile detention center outside of Racine, WI, built a new mental health wing to provide much-needed counseling services for the girl inmates. The administrator of this school cites a 56 drop in violent behavior since the new mental services have been offered. This is just one example of JABG's many successes, a record that supports keeping JABG alive and well-funded.

The same is true of title V Local Delinquency Prevention Program, the only Federal program solely dedicated to juvenile crime prevention. The Senate budget assumes a $50 million cut to title V, penny pinching now that will cost us dearly in the future. According to many experts in the field, every dollar spent on prevention saves three or four dollars in costs attributable to juvenile crime. And who can put a dollar value on the hundreds, even thousands of young lives turned from crime and into productive work and community life by the juvenile crime prevention programs supported by title V?

Following the President's lead, the Senate Budget Committee also drastically cuts the programs most important to state and local law enforcement. Congress appropriated a little more than $700 million last year in both discretionary and formula funds for the Byrne Justice Assistance Grant program. The budget before us assumes no funding for this program at all. Byrne grants pay for State and local drug task forces, community crime prevention programs, substance abuse treatment programs, prosecution initiatives, and many other local crime control programs.

Talk to any police chief or sheriff back in Wisconsin and they will tell you that the Byrne program is the backbone of Federal aid for local law enforcement. Do we really want to walk away from a program with more than 30 years of success supporting our local police chiefs, sheriffs, and district attorneys?

The COPS program is another victim of this budget. The budget assumes $118 million for the COPS program. That is down from $388 million last year. What is worse is that, within the COPS program, popular initiatives like the COPS Universal Hiring Program and the COPS Technology Grants Program are zeroed out entirely. We should remember that just 3 years ago, the overall COPS program received more than a billion dollars. Of that amount, $330,000,000 was for the hiring program that helped provide police officers for towns in Wisconsin like Ashland and Onalaska. Another $154,000,000 was for the COPS technology program that helped fund critical communications upgrades in cities, like Milwaukee and Madison and many other cities, not only in Wisconsin, but across the Nation.

Almost 3 years ago, I asked Attorney General Ashcroft him why the COPS program was being cut. He answered that that the COPS program was a ''good thing'', that it ''worked very well'' and that it had been one of the ''most successful programs'' we have ever had. I call on the Senate to heed our former Attorney General's words and restore funding for COPS in our budget.

Finally, The Senate budget assumes cuts in the High Intensity Drug Trafficking Areas, HIDTA program from $227 top $100 million. The HIDTA program is a vital collaboration between Federal, State and local law enforcement to combat drug trafficking through intelligence-gathering and cooperation. This proposed cut in the overall HIDTA program threatens the future of smaller HIDTAs like the one in Milwaukee, a program that has been extremely successful in stemming crime.

The downward spiral of juvenile justice and local law enforcement funding is a disturbing budget trend with ugly real world implications. As a result of the Byrne, COPS, JABG, HIDTA and title V programs, we have enjoyed steadily decreasing crime rates for the past decade. But, if we do not, at a minimum, maintain funding for crime fighting, we cannot be surprised if crime again infests our cities, communities, and neighborhoods.

The budget assumes more than $1.2 billion will be cut from what it would take to fully fund OJJDP, the Byrne Grant Program, COPS, and HIDTA at last year's level adjusted for inflation. We restore $500 million of that, not enough to make these important crime fighting programs whole, but enough to keep them functioning and working to keep our communities and families safe. Though some of us would prefer an even higher increase, my amendment represents a step in the right direction. I urge my colleagues to support this amendment.

AMENDMENT NO. 214

Mr. KOHL. Mr. President, I rise today in strong support of the Snowe-Wyden amendment. I am proud to cosponsor this amendment to allow the Secretary of Health and Human Services to negotiate for the lowest prescription drug prices in Medicare.

Americans pay the highest drug prices in the world. Americans pay, on average, two-thirds more than the Canadians, 80 percent more than the Germans, and 60 percent more than the

British. While drug companies argue that they need high prices in America in order to fund research and development for new drugs, drug companies spend more on marketing, advertising, and administration than they spend on research.

Our seniors deserve a Medicare prescription drug benefit that gets the best prices for their medication. But the Medicare prescription drug law actually prohibits the Federal Government from negotiating with drug companies for lower prices. This is a missed opportunity and a waste of taxpayers' dollars.

In light of the growing concerns over the rising cost of this benefit—$57 billion more than originally expected—every effort should be made to save our seniors and taxpayers dollars.

This amendment requires the Secretary of Health and Human Services to use the tremendous purchasing power of the 41 million Medicare beneficiaries to assist the private drug plans in getting the lowest price for seniors. The savings provided by this amendment would go to pay for deficit reduction.

I urge my colleagues to support this commonsense effort to lower prescription drug prices and reduce the deficit.

AMENDMENT NO. 172

Mr. KOHL. Mr. President, I rise today in strong support of the Harkin amendment. I am proud to be a cosponsor of this amendment, which preserves funding for Perkins career and technical education for the next 5 years. While the Administration has determined that Perkins is ineffective, I rise today to defend Perkins and highlight its proven effectiveness in my home State of Wisconsin.

Perkins provides over $24 million in education and job training to Wisconsin students. These funds are allocated between the Wisconsin Technical College System and the Wisconsin Department of Public Instruction.

Over the past 5 years, 97 percent of Wisconsin's high schools have participated in the federally funded Perkins career and technical education programs. This includes over 98 percent of 11th and 12th grade students, as well as secondary special students in the State. As the result of this investment in career and technical programs, 96 percent of Wisconsin students completing high school career and technical education programs graduate, compared to the State's overall graduation rate of 91 percent.

The Wisconsin Technica1 College System and its 16-member colleges receive $13 million in Perkins funding to reach 25,000 students statewide. Students who qualify for Perkins-funded services are those most in need of assistance to ensure their future success in the workforce. Many are academically and economically disadvantaged. Some have disabilities, are single parents or have limited English proficiency. These students are provided counseling, disability support services, services related to increasing students enrolled in non-traditional occupations, remedial instruction, and transition services that help students successfully move from K–12 education to technical colleges and from technical colleges to the workforce.

Our technical colleges have demonstrated success helping their students meet these unique challenges. Six months after graduation, 91 percent of graduates are employed with an annual median salary of over $30,000. Five years after graduation, 97 percent are employed making nearly $36,000 a year. These graduates positively contribute to their communities and meet the needs of local businesses.

The loss of Perkins funding would significantly weaken our Nation's educational quality and economic competitiveness. This amendment is fully offset and provides deficit reduction. I urge my colleagues to support Senator HARKIN's amendment to ensure that students in Wisconsin and elsewhere continue to benefit from Perkins to compete in the 21st century economy.

Mr. SARBANES. Mr. President, I was pleased to join with my colleague Senator CHAFEE in sponsoring a sense of the Senate resolution which sought to restore the Clean Water State Revolving Funds to the fiscal year 2004 enacted level of $1.35 billion.

For the past 2 years, Senators CRAPO, JEFFORDS, and I, along with other Members of this body, have offered successful amendments to the budget resolution on the Senate floor seeking to boost funding for this program from $1.35 billion to $3.2 billion.

Unfortunately, these amendments were not accepted by the conference committee for fiscal year 2004, and there was no budget resolution in fiscal year 2005.

There is a tremendous need for increased funding for wastewater treatment infrastructure improvements throughout the country. As we underscore in this resolution, in 2002 the Congressional Budget Office estimated a spending gap for clean water needs between $132 billion and $388 billion over 20 years. This year we are proposing a very modest amendment simply to hold the line.

All States will be affected by the President's proposed cut in spending, a cut of 33 percent from the fiscal year 2005 enacted funding and a cut of 46 percent from the 2004 enacted level.

This cut will have a devastating impact on the ability of States and communities to continue upgrading their wastewater infrastructure and to meet the requirements of the Clean Water Act.

This request to restore the funding has broad bipartisan support: 41 Senators joined me in a letter seeking this restoration.

Americans overwhelmingly believe that clean and safe water should be a national issue and a national priority. Protecting our Nation's water is an essential Federal role, not just a State and local responsibility.

In a recent poll, nearly three-quarters of Americans agreed that ''clean and safe water is a national issue that requires dedicated national funding.'' More than two-thirds think Federal spending to ensure clean and safe water is more important than tax cuts. Across the Nation, our wastewater systems are aging. Some systems currently in use were built more than a century ago and have outlived their useful life.

Many communities cannot meet water-quality goals with their current systems. The American Society of Civil Engineers recently released its 2005 Report Card for America's Infrastructure and gave Wastewater systems a D minus, down from a D 2 years ago.

Obviously, I would like to see a significant increase in these clean water State revolving funds, which have been a highly effective means for improving wastewater treatment for communities across the Nation. However, at a minimum, I urge a simple restoration of the funding to the 2004 enacted level.

Mr. GRASSLEY. Mr. President, my colleague, Senator ENZI, and I filed our amendment dealing with the defined benefit plan reform proposals in this budget. The amendment provides the necessary flexibility with respect to revenues and outlay savings between our two committees.

Unfortunately, a last-minute objection from staff on the other side sidetracked our amendment. We will pursue this amendment in the conference on the resolution.

VOTE EXPLANATION

Mr. PRYOR. Mr. President, yesterday I inadvertently missed a vote on an amendment to increase funding for AMTRAK by $1.4 billion. The amendment would have been paid for by closing corporate tax loopholes. If I were present I would have voted yea.

AMTRAK is important to Arkansas. By shifting the AMTRAK funding burden to States we are doing a real disservice to those people in rural America who rely on rail service. And without adequate assistance, I fear we will witness a rapid decrease in Amtrak's performance and infrastructure, and the end of rail service for my State.

I think it should be a goal of AMTRAK to achieve economic viability and I am open to discussions on how best to achieve that goal. But in this budget we should not ignore their funding needs or the needs of our rail passengers and State and local governments. I commend Senator ROBERT BYRD for this amendment and I regret having inadvertently missed this vote.

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, had I been present for vote number 66, amendment No. 230 sponsored by Senator COLEMAN, to restore funding for Community Development Block Grants and other programs, I would have voted in favor of the amendment.

Due to the rapid scheduling of amendments at this time, I was unable to be here for that vote. However, my

position with respect to CDBG funding is crystal clear. In fact, I was a cosponsor of the Sarbanes amendment to restore CDBG funding, which unfortunately failed on a 50–50 vote.

Although I preferred the offset in the Sarbanes amendment, I nonetheless would have voted for the Coleman amendment as well. CDBG provides critical funds to many communities in my State. It is one of the Federal Government's most effective neighborhood privatization programs. I am please that the Coleman amendment passed this body today, and I will continue to work in the Senate to ensure that the President's proposed cuts are not enacted into law.

Mr. BUNNING. Mr. President, I rise today to express my support for the Budget resolution before us.

Let's start with the revenue reconciliation instructions. We have already seen many amendments to raise taxes and I am sure we will see more. But there is another tax increase on the horizon. I am referring to the tax increase our constituents will feel in their pocketbooks and wallets if we fail to extend current tax law.

The so-called ''tax cuts'' the other side keeps referring to is really nothing more than just keeping current tax law. There are over 40 provisions that American families and employers have come to rely on that will expire at the end of this year if we do nothing.

The $70 billion in reconciliation that this resolution calls for is needed to prevent a massive tax increase. This is about provisions in current law that are important to our constituents and to our economy. We cannot afford to allow them to expire and therefore be raised.

Let's take a look at the items that the Finance Committee, which I serve on, will examine this year. There is the R&D tax credit. This is an important provision of the Tax Code that spurs innovation and new technologies and one that I and most others here support.

In fact, the bill introduced in the Senate in the last Congress to make this provision permanent had 40 cosponsors, including 22 Democrats. It will cost $7 billion to extend this provision alone for the 5 years of this budget.

Then there is the deduction for tuition expenses that will cost $10 billion to extend for 5 years. And we need to address the ability of taxpayers to deduct their State sales taxes from their Federal taxes. This will cost $2 billion for just 1 year.

We have a temporary, 1-year fix for the alternative minimum tax that will cost $30 billion.

Other items that expire this year include: the work opportunity and welfare-to-work tax credits, mental health parity, a provision regarding military pay and the earned income tax credit, a deduction for teachers who buy classroom supplies, the wind energy tax credit, oil and gas tax provisions, tax credit bonds for school renovations. I could go on and on.

Again, over 40 provisions in total will expire this year. Let me be clear, these are not new tax proposals. This is simply current law. If we do not extend these provisions we will cause a substantial increase in the tax bills of American families and businesses.

Our Finance Committee needs every cent of the $70 billion in the reconciliation instruction to make that happen. And that is even before we turn our attention to the dividends and capital gains tax provisions that have been important to our economy. I will push hard to extend these through the end of the budget window.

The amendments we have seen the last few days also deal with ''closing tax loopholes'' to get so-called ''corporate cheats''. I serve on the Senate Finance Committee and I can tell my colleagues that no one is more committed to closing tax loopholes than Chairman GRASSLEY.

In fact, the last tax bill we passed, the Jobs bill, had tens of billions of dollars in tax loophole closers. If any doubts that CHUCK GRASSLEY will take every opportunity to shut down tax cheats, then I suggest they go talk to him and look at the record on this issue.

And for the record, it has been a Republican Congress and President that has gone after these loopholes and tax cheats in the Finance Committee.

In addition to the over 40 tax extenders I referred to, we also have other priorities, such as the tax title of the Energy bill and charitable provisions in the Care Act. Charities do such important work in America and offer incredible compassion. They touch lives in ways the Government never can.

And if we want to be energy independent and less dependent on foreign sources, then we need to encourage the development of energy alternatives for the cleaner burning of fuels, such as clean coal technologies.

So I hope we can avoid getting caught in the rhetoric that calls the reconciliation instruction ''unnecessary.'' It is absolutely necessary if we are to prevent a massive tax increase. And it is especially vital when our economy is showing real signs of continuing solid growth.

I also want to address some of the complaints that we have heard about the horrible so-called ''cuts'' in Medicaid spending that the president asked for and we assumed in this budget.

Medicaid spending is projected to grow $1.112 trillion in the next 5 years. The president's plan would call for a spending increase of $1.098 trillion over 5 years.

Notice that I said a spending increase of more than $1 trillion. That works out to an annual growth rate of 7.2 percent. On what planet is an increase of 7.2 percent a year a cut? Let's get honest about the complaints we are hearing. What we are hearing are complaints that an increase of 40 percent in 5 years is just too little. Think about that: 40 percent.

All we are asking of the Medicaid program, as we hand them a more than $1 trillion funding increase, is to cut out $14 billion in abuse and waste. I don't understand how anyone can say with a straight face that it is impossible to save less than 2 percent of the budget of any program over a 5-year period. It absolutely can be done. We just need to have the will to do it.

We absolutely must get a handle on entitlement and mandatory spending because the numbers are alarming. By 2030 Medicare, Medicaid and Social Security spending alone will be 13 percent of GDP. Unless we reform entitlement spending, we simply cannot continue on our current path.

This budget is a first step, a very small first step, toward beginning to address the entitlement spending that threatens to overburden our economy.

I support this budget before us. It recognizes the realities of our world with the need to limit spending and extend current tax law to create jobs and keep America on the road to economic recovery. I congratulate Chairman GREGG on crafting a strong budget and I urge my colleagues to support it.

Mr. HATCH. Mr. President, I rise to express my support for the concurrent budget resolution presently before the Senate.

I want to start by congratulating Senator JUDD GREGG, the new chairman of the Budget Committee, along with the other members of that committee, for accomplishing the difficult task of putting together and reporting to the Senate a budget resolution that begins to address our spending and deficit challenges in a modest yet significant way.

As with many of my fellow Utahns, I am very concerned about the large and persistent deficits with which our Federal Government still wrestles. I continue to hear from constituents who seem discouraged that the Government has not been able to find more success in bringing the budget into balance, particularly after the several years of surplus we enjoyed in the latter part of the last decade.

Many Utahns have written to me to express their concerns that this generation is leaving a huge and growing burden on our children and grandchildren, one that perhaps will be too onerous for them to bear. As a longtime advocate of fiscal responsibility in families and in Government, I understand and agree with these concerns. The deficit and the mountain of public debt owed by the Federal Government do matter, and will make life harder for Americans in the future.

And so, those of us from Utah share a collective frustration that this budget does not make more progress toward cutting the deficit.

As I examine the budget resolution, however, I am struck by the fact that we, as a nation, are still facing turbulent conditions that seem to defy our

best efforts to control our fiscal destiny. As we get farther and farther from the monumental events of the early part of this decade that have shaped our current landscape in so many ways, perhaps it is becoming easier to think that things are slowly returning to normal in our country.

But we need to remember that this Nation is still at war, and we still face tremendous challenges in protecting our homeland from further terrorist attacks. These needs are paramount and eclipse even the importance of balancing the budget. This budget resolution reflects these facts and provides for increases, although a relatively modest 4.1 percent growth in defense and homeland security spending.

At the same time, the budget places a virtual freeze on the growth of the remainder of discretionary spending accounts. This is in stark contrast to recent years, where such spending has grown at a relatively high rate. I believe this nondefense/homeland security freeze is a very important feature of this budget. Even though this restraint is rather modest, it is being met with a great deal of concern from many who had hoped to see more growth in the programs that fall under this category.

The budget also makes some small progress in bringing mandatory spending under control. Over the 5-year budget period provided by this resolution, this type of spending growth is cut by $32 billion. Although this is just a fraction of the growth in entitlement spending projected over this period, it is significant that this budget represents the first attempt to cut mandatory spending growth since 1997.

The results of these changes on the deficit are not dramatic, but they are noteworthy. The President set a goal last year to cut the deficit for fiscal year 2004, which was $521 billion, or 4.5 percent of GDP, in half within 5 years. The budget resolution before us projects this goal being met in fiscal year 2008 with a deficit of $258 billion that year, and falling to $208 billion by 2010. In relative terms, the deficit is projected to be 1.8 percent of GDP by 2008 and just 1.3 percent by 2010. While still too large, these deficits are certainly more manageable than those of recent years.

To meet these goals, the resolution provides some pretty tough discretionary spending caps for the next three fiscal years, and retains the pay-as-you-go rule from the fiscal year 2004 budget resolution.

Some of my colleagues are questioning the need for the budget to provide for approximately $70 billion in tax relief over the next 5 years. We need this money set aside to prevent tax increases that would be damaging to our growing economy.

Specifically, two provisions that have shown to be very important to increasing Federal revenue growth and helping the economy to recover are set to expire at the end of 2008. These are the reduced tax rates for dividend income and capital gain income that were enacted as part of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

If Congress allows these lower tax rates to expire, we would, in effect, be placing a significant tax increase on the economy. Capital gains rates would increase from a maximum of 15 percent to 20 percent, and the tax rate on dividends would leap from 15 percent to as high as 35 percent.

There is no doubt that these tax rate reductions, combined with the other tax cuts we passed in 2001, 2002, and 2003 have contributed to the recovery of the economy. After declining for 3 years, 2001–2003, Federal collections began increasing again in 2004, rising by 5.5 percent that year. For the current fiscal year, 2005, revenues are projected to jump by an impressive 9.4 percent. Moreover, revenues are expected to increase by an average of 6.4 percent each year until the end of the decade. This demonstrates to me the wisdom of our earlier decisions to cut taxes to get the economy growing again.

Allowing tax rates to increase might seem to some to be a smart way to fight the deficit, but I believe these revenue trends illustrate that such a move would be counterproductive and exactly the wrong thing to do. Therefore, it is very important that this budget include the reconciliation instructions that provide the opportunity for the Finance Committee to report the legislation that will prevent these tax cuts from expiring.

I look forward to working my colleagues on the Finance Committee in crafting a bill to extend both the dividends and capital gains tax rate reductions, as well as extending other important tax provisions that expire later this year.

While this budget resolution perhaps does not go as far as I would like to see in reducing the deficit and addressing spending growth, it is probably as strong as we can make it. I also recognize that this resolution has to garner a majority of votes in both the Senate and the House for it to take effect. Each one of my colleagues also has his or her own ideas of what would be the best combination of spending priorities for this coming fiscal year. In the end, what counts is what we can get a majority of us to agree upon the lowest common denominator.

Given the circumstances, the balances achieved in the budget resolution may well be the best we can do. It is not perfect, but it is a start, and it deserves our support.

Mr. BROWNBACK. Mr. President, for the past few years I have been advancing a concept that embodies fiscal responsibility, a concept that—if enacted—would be a sure sign to hard-working Americans that the Federal Government is serious about fiscal discipline.

Federal spending is at an all time high, now topping $20,000 per household, and that does not include spending from state and local taxes. This is the highest level of federal spending since World War II.

The Federal Government is now spending $2,292,000,000 per year on discretionary and mandatory spending, including Social Security.

Mr. President, $2.292 trillion is a lot of money. My Kansas constituents often say: ''I don't mind paying my taxes, but make sure my hard-earned money gets spent wisely.''

Does Federal spending need to be so high? We would all agree that the Federal Government has an essential role to play in various capacities, but are taxpayers getting the most out of every dollar sent to Washington? Again, I ask, does the Federal Government really need $20,000 per American household in order to operate?

And what real safeguards do we have in place to ensure that these $2.292 trillion are being spent wisely?

I am proud to have been elected to serve my constituents on a platform of reducing wasteful Federal spending and reforming Government. After 10 years though, I can testify that it takes a great deal of effort to keep a positive attitude. Balancing the budget, reducing Federal spending and returning taxpayer dollars to the families that earned them is hard work.

The reason for the difficulty in achieving success, in what would seem to be an obvious thing to do—reducing government waste and prioritizing spending—is that the specific interests trump the general interest on Capitol Hill.

For instance, there is a general interest to discourage smoking, and we spend many taxpayer dollars both to this end and on the treatment of lung cancer; however, taxpayer dollars are also still spent to subsidize tobacco because there is such specific interest pressure to keep tobacco subsidies alive.

The budget we are debating cuts the deficit in half in 5 years. I think we should balance the budget in seven years, but to be effective, we must work within the parameters of the system.

Systems matter, and to get solid reform accomplished you must have an approach that recognizes this reality. The problem with our current system—with the specific interest crowding out the general—is that it makes reform very difficult. Former Senator Phil Gramm taught me this truth in the Senate.

I believe that we need a new systematic approach to spending in Congress. This whole week, amendment after amendment has been offered on the Senate floor; generally speaking, each one of these amendments has the voice of a particular specific interest behind it. After all of the specific interest issues are raised, I will be happy if we can just cut the deficit in half in five years.

We need to create another mechanism, which will allow for the general

interest to overcome the specific. Therefore, I put forward a new systematic approach.

Over the last few years, I have developed the Commission on the Accountability and Review of Federal Agencies, CARFA Act, which is a systematic approach.

Last year, we had a bipartisan hearing on the measure, in which all witnesses supported this new concept. In this year's version of the bill, we are incorporating some of the suggestions made at that hearing.

CARFA would take all of the Federal Government agencies and programs and put them under the review of a bipartisan commission—the members of which are appointed by both Congress and the White House.

The commission would review Federal agencies and programs, and present draft legislation to the Congress to realign or eliminate duplicative, wasteful, outdated, and failed agencies and programs.

Each house of Congress would get one vote on the bill—up or down—without amendment.

For example, if the commission finds 563 programs that are duplicative, wasteful, or already have accomplished their purpose and recommends their realignment or termination, then the Congress would vote—up or down—without amendment to realign or eliminate all of them or keep all of them. And you get only one vote—one vote in the House and one vote in the Senate—to send it forward to the President.

It is a systematic approach to address the specific interests dominating the debate in Washington.

The CARFA approach tries to get at the issue and create a systematic approach by giving the general interest a voice in the system. So now you have these 563 or 284 programs, and people come up to me and say: ''Well, what if you've got an agriculture program that has some benefit to Kansas, that you want to help and keep?''

Then, I look at the program and see that it does help Kansas, but I only get one vote and there are all of these other programs that I really do think need to be eliminated. And it makes the overall goal of balancing the Federal budget more achievable.

I am pleased that, once again this year, the chairman of the Budget Committee has seen the need for this measure and recognized how vitally important it is, as he has included a sense of the Senate calling for a commission along the lines of CARFA.

It is my hope that we will be able to work with the leadership this year and see the new CARFA systematic approach become a reality.

Mr. STEVENS. The amendment to strip development in ANWR from the budget yesterday ignores the outlook for the global consumption of oil. I am pleased that the Senate took a proactive approach to our current energy crisis, and voted to keep ANWR in the budget.

After listening at length to the statements of those opposed to responsible development on Alaska's North Slope, I was struck by the lack of concern over the national security implications of our dependence on foreign oil.

The global outlook for oil consumption is sobering, and it validates our decision yesterday to increase our domestic production by opening ANWR. One of the most serious areas of concern is the projected increase in China's oil consumption, which is set to grow at staggering rates.

China's economy is doubling every 8 to 10 years. This level of growth is expected to continue for at least 25 years.

To do this, China will need access to an increasing supply of oil. Milton Copulos, the President of the National Defense Council Foundation, told our House colleagues yesterday that fueling this economic growth will require ''so much oil . . . that the ability of current suppliers to produce it may be stretched to the breaking point.''

Jeffery Logan, Senior Energy Analyst and China Program Manager for the International Energy Agency, testified that, the average Chinese citizen consumed only one fourteenth of the oil consumed by the average American in 2004, but Chinese consumption is poised to increase rapidly.

Mr. Logan noted that in late 2003 China surpassed Japan to become the world's second largest petroleum consumer. He said:

> In 2004, Chinese demand expanded nearly 16 percent to 6.83 million barrels per day . . . [but] Domestic crude output in China has grown only very slowly over the past five years . . . Imports now account for 40 percent of Chinese oil demand.

To put this in perspective, Chinese oil consumption was responsible for 40 percent of the growth in global oil demand over the past four years. This trend will continue and China's consumption is projected to rise from 5.56 million barrels per day in 2003 to 12.8 million barrels in 2025.

Mr. Logan told the subcommittee that eventually China's ''import dependency'' will reach 75 percent stressing an already tenuous world oil supply.

Milton Copulos explained the consequences of this increase in Chinese consumption. He said:

> Under the best circumstances, the competition for oil generated by the explosive economic growth in Asia will serve to put a tremendous upward pressure on prices, driving them well above the current $50 plus per barrel average. OPEC officials have said oil prices could rise to as much as $80 a barrel and they may well be correct.
>
> Under the worst circumstances, . . . the competition for oil could lead to armed conflict—particularly with China.

I remember well the days of the 1970's oil embargo, and I agree with Mr. Copulos that, ''America is heading head-long into a disaster. Today our situation is far worse in 1973.''

I also agree with his assessment that:

> The simple truth is that America's energy endowment is more than sufficient to provide for all of our needs, both today and in the future. The only real shortfall that we have is a shortfall of the political will to find innovative ways to fully utilize the resources we are blessed with.

Mr. Copulos discussed several areas where having the political will to take action could help turn our situation around. As an Alaskan, I am proud that our state can play a key role in the solutions he proposed.

The reality that some people do not want to face is the world is changing. China's economy is growing at a staggering pace, and without new domestic production, our country will face unimaginable competition for oil. ANWR is part of the solution to this looming crisis, and I am pleased Congress has finally had the political will to face this challenge and take proactive steps to prevent it.

Mr. LEVIN. Mr. President, this budget, like the President's budget, reflects the wrong priorities. This budget short changes public services such as education and health care for all Americans in order to further cut taxes mainly for the wealthiest Americans. This budget resolution is starkly out of touch with the vast majority of working families in Michigan and across the United States. The American people deserve better.

To create the impression that the budget cuts the deficit in half over the next 5 years, it simply leaves out several major expenses. These omissions include the cost of the wars in Iraq and Afghanistan, the cost of the personnel added to the Army and Marines and the cost of reforming the alternative minimum tax. Leaving these costs out of the budget paints an incomplete picture of the deepening Federal deficit and the damage being done to the Nation's fiscal outlook.

If the deficit continues to expand at its current rate, by 2015, each American's share of the debt will be at least $30,000. The bigger the deficit grows, the more likely it is that we will face rising long-term interest rates and slower economic growth. This will make it more expensive to buy a house, pay for college or pay off credit card debt. This is an unfair burden to pass on to our children and grandchildren.

The President's tax cuts are a major cause of our Nation's swing from a record budget surplus into an increasingly deep deficit ditch. Yet this resolution seeks $71 billion in additional tax breaks most of which are for the wealthiest Americans. The cornerstone of these proposed tax cuts is the extension of the capital gains and dividend tax cuts. These tax cuts would overwhelmingly benefit the wealthiest among us.

Largely as a result of its reckless tax cuts, this budget would actually increase, rather than decrease, the deficit. But this budget resolution, such as the President's budget, attempts to conceal the damage it is doing to the Nation's fiscal outlook by using 5-year projections instead of the customary

10-year numbers. Hidden just beyond the 5-year budget window is the exploding cost of the tax cut proposals and its growing effect on the deficit.

I am disappointed that the Senate did not adopt the Feingold-Chafee amendment to reinstate pay-as-you-go rules that would require both entitlement spending increases and tax cuts to be fully paid for or face a 60-vote point of order in the Senate. The pay-as-you-go rule, like the one which was successful in the 1990s, would have helped restrain the deficit without unduly harming critical public services.

I am pleased that the Senate rejected severe cuts to the Medicaid Program in a crucial vote earlier today. This is a victory for the 53 million children, pregnant women, elderly and disabled who rely on Medicaid to meet their health care needs. It is also a victory for the people that make our health care delivery system work.

Still the budget plan which is before the Senate today fails to address some of our Nation's most pressing problems, such as the loss of millions of manufacturing jobs, cuts in education funding, and environmental protection.

I am also saddened that the Senate rejected an amendment to continue to protect the Arctic National Wildlife Refuge. We have a responsibility to promote a balanced energy plan that invests in America's future and protects our environment, not one that damages our protected lands. Rather than drilling in our pristine wilderness, the United States should be investing in alternative sources of power, renewable energy programs and fuel efficient automotive technology to improve fuel economy without harming our environment.

This budget slashes funding for vital programs for working families in order to extend massive and fiscally irresponsible tax cuts that significantly lower the Nation's revenue and explode the deficit. These are the wrong priorities for America. I cannot support it.

Mr. KENNEDY. Mr. President, this budget does not adequately protect children. That is why I filed an amendment to help lift millions of children out of poverty. I will plan to offer this amendment at the next appropriate time.

In the last 4 years, over 4 million of our fellow citizens have fallen into poverty. Nearly 36 million Americans live below the poverty line; 3 million more Americans live in hunger or on the verge of hunger today than in the year 2000.

Today, nearly 13 million children live in poverty in the United States. It is shameful that in the richest and most powerful nation on Earth, nearly a fifth of all children go to bed hungry at night. Poverty is a moral issue, and we have a moral obligation to address it.

Current policies are failing, and it is time to take a stronger stand. We should set a national goal of reducing child poverty by 50 percent within a decade and to eliminate it entirely as soon as possible after that. To help meet this commitment, we should enact a one percent surtax for income over $1 million. This surtax, paid by our wealthiest citizens, will raise $3.5 billion this year, and more in subsequent years, to meet the needs of our most vulnerable citizens.

The amendment will create a child poverty elimination fund with a board to oversee the fund, and design the child poverty elimination plan.

We know how to achieve this goal. All it requires is the will, and the leadership, to do it. Prime Minister Tony Blair made a commitment to do so in Britain, and they have begun to reach the goal. Their approach is to support both parents and children. They have pledged to increase employment opportunities, raise incomes for those who work, increase support for those who cannot work, and improve public services for children and families.

It is time for America to make a similar commitment, and give real hope, real opportunity and real fairness to children and families mired in poverty in communities in all parts of our country.

We cannot continue to look the other way while millions of our fellow citizens work hard, play by the rules, and still cannot escape a lifetime in poverty.

Everywhere we look, the current budget is a nightmare for those who need our help the most. It cuts the Women, Infants, and Children Program, which provides health information and nutritious meals to low income pregnant women and their children. It cuts food stamps. It cuts Medicaid. It cuts low-income housing. It cuts low-income education. That is unacceptable. And yet the White House pretends it has an anti-poverty agenda. Nonsense. This budget is not anti-poverty, it is anti-poor.

As the wealthiest country on Earth, we are blessed with great abundance. In the powerful words of the Gospel, ''To whom much is given, much is required.'' That should be our national commitment to every American living in poverty today. I urge my colleagues to support this amendment.

Mr. AKAKA. Mr. President, I rise today to speak about a program very important to the children and families of Hawaii, as well as those who reside in other parts of the United States, the 21st Century Community Learning Centers Program. This program provides funding through a competitive grant process to fund ''centers that provide extended learning opportunities for students and related services to their families.''

The afterschool hours, those from 3 p.m. to 6 p.m., are a venturesome time for the youth of our country. Many school age children are unsupervised during these 3 risky hours. Many of them lack constructive activities such as sports or other school or community sponsored programs. Those who lack such activities become vulnerable to mischief or even danger whether they are the victim of a crime or the perpetrator. Whether they are considering the use of tobacco, alcohol or drugs, or doing a myriad of other activities detrimental to their well-being, they would be better served in supervised afterschool activities, the kind of activities supported by the 21st Century Community Learning Centers Program.

According to FightCrime, an organization of law enforcement professionals representing all 50 states, ''Being unsupervised after school doubles the risk that 8th graders will smoke, drink alcohol or use drugs.'' They also report a study in Hawaii which noted an 84-percent drop in criminal convictions among school-aged males involved in quality afterschool programs funded by the 21st Century Community Learning Centers Program.

Afterschool programs can provide a critical link to positive growth for many of these students. The academic support and socialization provided by them will help many at-risk youth. These programs can provide that extra bit of help to enable children to succeed, in academics, and in life. This is what we are talking about, and this is just what this program provides.

The President's own evaluation system, the PART analysis, says that this program gets ''high scores for purpose, planning and management.'' This program was part of the President's signature education initiative, the No Child Left Behind Act, and is authorized at $2.25 billion for fiscal year 2006. Sadly, the President's fiscal year 2006 budget funds afterschool programs at the level-funded amount of $0.999 billion, less than 45 percent of its authorized level. In my own State of Hawaii, this underfunding results in more than 8,800 school-age children not being able to take advantage of programs to help with their education, character development or physical fitness, nor provide programs to ensure a safe environment during the afterschool hours.

The Dodd amendment to S. Con. Res. 18 attempts to address this funding shortfall. I am glad to be a cosponsor, and I thank him and the other members of the Afterschool Caucus, of which I am a part, for the leadership in trying to restore funding for this essential program.

Mr. KOHL. Mr. President, I am in strong opposition to this budget. As I have listened to the arguments of my colleagues on the other side of the aisle in favor of the budget, I am reminded of the Indian parable of the blind men and the elephant. Each could feel only one portion of the elephant, so each came to wildly different—and wildly inaccurate—conclusions as to what it was.

Similarly, it is hard for me to believe that those who are supporting this budget are looking at the whole picture. How can they call this budget fiscally responsible, when it would increase deficits $130 billion over where

they would be if we did nothing at all? How can they brag that the budget tackles the difficult issue of entitlement reform, when nowhere is there mention of Social Security and Medicare, our two largest entitlement programs?

How can they refer to this as a blueprint for Congressional action, when it leaves out major spending and tax initiatives that we know the leadership wants to pursue: funding for the Iraq war beyond 2006; the cost of fixing the alternative minimum tax; the multi-trillion dollar cost of the President's plan to privatize Social Security?

No one can defend this budget as a reasonable or complete response to the serious fiscal challenges this country faces. No one can defend this budget as accurately reflecting the priorities of our nation—for on those grounds, it is indefensible.

The President—along with Alan Greenspan and countless other wise pundits—have focused our attention on the severe budgetary consequences of the coming retirement of the baby boomers. Entitlements are growing at an unsustainable rate—and the time to address their growth is now.

Congress should act to strengthen Social Security now, rather than wait for the moment of crisis. Social Security can pay full benefits for another 40 or 50 years. After that—even if nothing is done—Social Security could still pay 70 to 80 percent of promised benefits. But if we act sooner rather than later, Social Security's long-term financial imbalance can be fixed through relatively modest adjustments. At the same time, we need to recognize that growing budget deficits will strain our ability to sustain not just Social Security, but other important programs like Medicare and Medicaid. We need to look at the entire Federal budget and act to bring these deficits under control so we can preserve programs that will put a strain on our budget in coming years.

How—given the President's crusade to ''save'' Social Security with private accounts, given the coming retirement of the Baby Boom—can this budget ignore Social Security and Medicare? Not a dollar assumed saved from either. Not a penny paid back to the Social Security trust fund. Not even an acknowledgement of the huge cost of the President's plan to divert Social Security payroll taxes into private accounts. Either this budget is incomplete or it is insincere.

I suppose we should be relieved not to see any provision made in the budget for the President's proposed private accounts. The President has chosen to make Social Security his top domestic priority, but so far he has only proposed the idea of private accounts, which he admits would do absolutely nothing to improve Social Security's finances. Borrowing to pay for the transition cost would add up to $5 trillion to the national debt. And because the President has taken all other options off the table, the private accounts would require massive benefit cuts to achieve solvency.

Obviously, Social Security reform—or entitlement reform in general—is not a priority to those who support this budget. And obviously, continued tax cuts financed with reductions in important government programs and with debt are. The budget puts on the fast track $70 billion in tax cuts—and not one penny of offsets. In fact, the Senate rejected Senator FEINGOLD's amendment, which I supported, that would have prohibited using debt to finance this sort of raid on the Treasury.

Instead, the Senate chose to expedite tax cuts that would disproportionately affect the wealthy. The budget facilitates the extension through 2010 of tax cuts on capital gains and dividend income. Nearly half of this will benefit households with incomes in excess of $1 million; in contrast, only 12 percent of the cuts will benefit families with incomes under $100,000. It is fiscal irresponsibility in truest form, to speed tax cuts through the Senate that will directly add to our growing deficit. In addition, the $70 billion figure includes permanent estate tax repeal. This provision, despite the fact that its true effect won't be felt until 2011, carries with it a price tag of more than $9 billion—$9 billion that will truly benefit the wealthiest Americans.

And while the budget finds plenty of room to reward millionaires with billion dollar tax cuts, it nickels and dimes the government programs the average American family relies on.

American seniors pay the highest drug prices in the world. Our seniors deserve a Medicare prescription drug benefit that gets the best prices for their medication. But the Medicare prescription drug law actually prohibits the Federal government from negotiating with drug companies for lower prices. This is a missed opportunity and a waste of taxpayers' dollars. Now, in light of the growing concerns over the rising cost of this benefit—more than $57 billion than originally expected—every effort should be made to save our seniors and taxpayers dollars. We missed a golden opportunity in the Budget today to accept an amendment that I was proud to cosponsor and require the Secretary of Health and Human Services to use the tremendous purchasing power of the 41 million Medicare beneficiaries to assist the private drug plans in getting the lowest price for seniors. The savings provided by this amendment would have gone to pay for deficit reduction. Unfortunately, this commonsense effort to lower prescription drug prices and reduce the deficit was rejected.

However, I do applaud my colleagues on both sides of the aisle for having the courage to stop the proposed $15 billion cut to Medicaid. Stopping these drastic cuts will ensure that thousands of poor families, disabled Americans and the elderly get the proper medical care they need. The proposed $15 billion Medicaid cut would have translated to a loss of $300 million for Wisconsin. It would be extremely difficult for Wisconsin and other states to absorb a cut of this magnitude while continuing to provide the level of services 53 million Americans depend on. Now, there should be a thorough discussion about how Medicaid can work better to serve low-income Americans. But we should never force arbitrary cuts in Medicaid without first taking the time to consider the future efficiency and operation of the Medicaid program. Medicaid is an essential source of health care for millions of our Nation's most vulnerable citizens, and any changes to the program should be driven by informed, reasoned policy and not by arbitrary budget targets. I am pleased to have cosponsored the amendment that passed the Senate to protect Medicaid from these drastic cuts.

We have a continuing responsibility to meet the health care needs of our children, families, and elderly. But—even with the improvement in the Medicaid policy, the cuts proposed in this budget do not match those needs. Older Americans Act programs are level funded even as our population ages and the need for services grows. LIHEAP funding is cut by $182 million as more families and seniors face higher energy costs. Funding for health professions training has been reduced by 64 percent at a time when we face health care workforce shortages. And funding for rural health programs has been slashed by 80 percent when rural areas are in desperate need of adequate health resources.

Perhaps the worst failure of this budget—it fails our nation's children. This budget proposes the first cut in education spending in a decade. Yet again, this budget fails to fully fund No Child Left Behind, leaving the Act underfunded by $39 billion since enactment. It fails to set special education on a glide path to full funding—it is slated to be nearly $4 billion short of what was authorized four months ago. This budget should reflect our values and needs in education. It clearly does not.

This budget still fails to fulfill our commitment to our veterans. The American people made a promise to our men and women in uniform that when they had completed their service, the Veterans Administration would be there to help them meet their health care needs. When we made that commitment, it was not conditional, and it did not involve high fees. Today we seem to be slowly changing the terms of service. We now say to our veterans that they will have to wait months for an appointment, and some veterans are of such low priority to the system that they may never receive care at all. I supported an amendment that would have bridged the funding gap between the President's budget and the funding level that the veterans' groups believe is necessary. Unfortunately, Senator AKAKA's amendment was not agreed to.

With that ''no'' vote, the Senate made a decision that some veterans did not deserve the benefits they had been promised.

I am also disappointed over the funding levels for transportation in this bill. I am especially disappointed that the Senate did not remedy the shortfall in funding for Amtrak. I was proud to cosponsor an amendment that would have fully funded Amtrak's basic needs at a level of $1.4 billion. The President's budget zeroed out funding for Amtrak, providing only $360 million to the Surface Transportation Board—and that would only be provided if Amtrak is forced to shut down in the Northeast Corridor. What the Administration fails to recognize, is that ridership in other areas of the country has increased; in Wisconsin, this means that 540,000 used Amtrak this past year. To force these 540,000 people onto our overcrowded roads and airports would be irresponsible, and I hope the Senate will reconsider before the end of the fiscal year.

While I am glad that we put the Senate on record opposing cuts to the Community Development Block Grant program, it is up to the Appropriators to decide whether to reverse the $2 billion cut in this vital program. CDBG and the 17 other federal community and economic development programs which the Administration proposed consolidating in the Commerce Department provide funds that are critical to meeting the needs of distressed and underserved communities. In my state of Wisconsin, at least 19 entitlement communities and many other smaller communities across the state are slated to lose millions of dollars if we do not stand firm and reverse this proposal.

I also regret that the Senate has decided to open up the Arctic National Wildlife Refuge to oil drilling. In the past bipartisan group of senators came together to protect this fragile ecosystem, but this year we failed to beat back drilling. By using the budget rules in a new, and some would say questionable, way a place that had been set aside as too valuable to be spoiled by drilling was opened to potential environmental degradation. The real tragedy here is that the oil we get from ANWR will have no impact on the price of oil. There is simply not enough oil in Alaska to have any real impact on the worldwide price. We have decided to risk irrevocable environmental damage but gained no additional control over our thirst for foreign oil. Until we aggressively address our domestic demand for oil, we will never be able be able to end our dependence on OPEC.

Following the administration's lead, the Senate Budget Committee allocated $187 million to the Office of Juvenile Justice and Delinquency Prevention, OJJDP, budget, which is about $173 million less than what we appropriated last year. I am particularly disturbed that the Senate Budget Resolution assumes complete elimination of the Juvenile Accountability Block Grant Program, JABG, which received $55 million last year. JABG provides funding for intervention programs that address the urgent needs of juveniles who have had run-ins with the law.

The same is true of Title V Local Delinquency Prevention Program, the only federal program solely dedicated to juvenile crime prevention. The Senate budget assumes a $50 million cut to Title V—penny pinching now that will cost us dearly in the future. According to many experts in the field, every dollar spent on prevention saves three or four dollars in costs attributable to juvenile crime. And who can put a dollar value on the hundreds, even thousands of young lives turned from crime and into productive work and community life by the juvenile crime prevention programs supported by Title V?

Following the President's lead, the Senate Budget Committee also drastically cuts the programs most important to state and local law enforcement. Congress appropriated a little more than $700 million last year in both discretionary and formula funds for the Byrne Justice Assistance Grant Program. The Budget before us assumes no funding for this program at all. Byrne grants pay for state and local drug task forces, community crime prevention programs, substance abuse treatment programs, prosecution initiatives, and many other local crime control programs.

The COPS program is another victim of this budget. The Budget assumes $118 million for the COPS program—that is down from $388 million last year. What's worse is that, within the COPS program, popular initiatives like the COPS Universal Hiring Program and the COPS Technology Grants Program are zeroed out entirely. We should remember that just three years ago, the overall COPS program received more than a billion dollars. Of that amount, $330,000,000 was for the hiring program and roughly $154,000,000 for the COPS technology program that helped fund critical communications upgrades in cities—like Milwaukee and Madison—and many other towns—like Ashland and Onalaska—across Wisconsin and the nation.

Finally, the Senate budget assumes cuts in the High Intensity Drug Trafficking Areas, HIDTA, program from $227 to $100 million. The HIDTA program is a vital collaboration between federal, state and local law enforcement to combat drug trafficking through intelligence-gathering and cooperation. This proposed cut in the overall HIDTA program threatens the future of smaller HIDTAs like the one in Milwaukee—a program that has been extremely successful in stemming crime.

The downward spiral of juvenile justice and local law enforcement funding is a disturbing budget trend with ugly real world implications. As a result of the Byrne, COPS, JABG, HIDTA and Title V programs, we have enjoyed steadily decreasing crime rates for the past decade. But, if we do not, at a minimum, maintain funding for crime fighting, we cannot be surprised if crime again infests our cities, communities, and neighborhoods.

That is why I offered an amendment with Senators HATCH and BIDEN to restore this dramatic loss of juvenile justice and local law enforcement funding. Cuts to these programs total more than $1.2 billion. Our amendment restores $1 billion of that—not enough to make these important crime fighting programs whole, but enough to keep them functioning and working to keep our communities and families safe.

For rural America, this budget leaves so much to be desired that it's hard to know where to begin. If you assume the President's vision on discretionary spending is carried out, as this budget proposes, basic agricultural research will be slashed beyond recognition. Rural housing, rural development and conservation will suffer. Nutrition for kids and food stamps for the working poor will be on the chopping block. And the fundamental fabric of rural America will be put at risk.

A budget is a statement of who we are as a nation. I do not believe we are a country that takes from the poor and sick to make the rich richer. I do not believe we are a country that steals from our children's future to indulge ourselves today. I do not believe we are a country that ignores threats to our prosperity and stability. I do not believe we are who this budget says we are, and I will vote against it.

Let me make one final point. Often, we hear that it would be irresponsible for Congress to reject a budget. Not this year. If we reject this budget,—if we do nothing at all—deficits will be $130 billion less than had we acted. A vote against the budget is a vote for deficit reduction. It is also a vote for responsible accounting, for honoring our commitments to our seniors and our children, for compassion towards those who are hungry, sick, or just struggling to raise a family in an uncertain world. For that reason, I will vote against this budget, and I urge my colleagues to do the same.

Mr. BIDEN. Mr. President, to govern is to choose. Nowhere are our priorities and our values made clearer than in the budgets we write here every year.

In these times, we face many tough choices. This budget ducks them all. It chooses the powerful over those without a voice. It chooses to reward wealth instead of work. It chooses the present over the future. It chooses debt and borrowing over sound finance.

This budget rejects the very rules that brought our budget into balance just a few years ago. It ducks our duty to take responsibility for our choices, and sends the bill to our children and grandchildren.

I will vote against this budget, and I urge my colleagues to reject it, too.

Just 4 years ago we were considering the first budget of the new Bush administration. At that time, we could

look forward to a decade of budget surpluses, totaling $5.6 trillion.

We were paying down the national debt, and with every dollar accumulating in surplus, we were making our future stronger. Social Security funds were not being spent, as they are today, to fund the other functions of Government. Interest payments on the debt were shrinking, not growing.

With the impending retirement of the Baby Boom generation, with the need to educate and train a workforce to take on the world of the 21st Century, we were doing the right thing—saving for challenges we could see coming.

But instead of seeing those surpluses as an opportunity to get our house in order, instead of increasing our national savings by paying down the debt, the incoming administration insisted on a course that has resulted in the most dramatic reversal in our Nation's finances in our history.

The record at that time is full of warnings that tax cuts of that magnitude would make it difficult, if not impossible, to meet the known challenges ahead, much less any surprises that history could throw at us.

We were assured that the surpluses had to go, that we had all the money we needed to deal with recession, national security threats, natural disasters—anything we might have to face. We would be able to balance the budget, put money away for the surge in retirees, and meet every threat and challenge.

A lot of us did not buy it. The record is full of warnings about the long-term damage of massive tax cuts without regard for our future obligations.

But those tax cuts were passed. And more tax cuts followed every year, in time of economic boom, in time of recession, in peacetime, in wartime, when our budget was in surplus, and increasingly, as our budget deficits grew. Regardless of the situation, regardless of the facts, more tax cuts.

In the face of all the challenges we face, we are now running our Government on a level of revenue not seen since the 1950s. A 21st Century superpower, on a 1950s budget.

By the time they expire, the tax cuts we have put into law over the last 4 years will cost almost $2 trillion.

But we will be asked to extend those cuts past their expiration. Not to do so, we are told, would be a tax increase. But those expiration dates were chosen to make the tax cuts look smaller. Extending those cuts will raise the total cost to over $5 trillion through 2015.

That should cause serious people to stop and think. We are now engaged in an open-ended global war on terror, in a shooting war and reconstruction in Iraq. Security challenges from domestic threats to nuclear proliferation will continue to demand additional resources.

Medicare and Medicaid are facing real crises, driven by an aging population and rising health care costs. Social Security has a long term funding problem that will have to be confronted, the sooner the better.

As the global economy brings billions of new workers and customers into its scope, our country is in a real fight to protect and create good-paying jobs. That means strengthening our schools and universities, increasing research and innovation, investing in 21st Century infrastructure. All of that takes money.

This budget chooses to ignore those priorities. In fact, it cuts the resources we need to meet those challenges.

But it does not touch a dime of the $5 trillion the tax cuts will cost if they are all extended. Not a moment's pause, not a penny reconsidered.

The President constantly reminds us that the world has changed profoundly in the past four years. That is true. He tells us that we face unprecedented challenges. That is also true.

But his budget, the budget before us today, ignores those truths. It continues the most reckless budget policies I have seen in my 30 years in the Senate. Those policies have taken us from the strongest fiscal position we have known to the brink of the abyss. There is no way under these policies that we will ever get out of debt again.

We are now debating the most basic priorities of our Government. The budget document we will vote on today will be the statement of this Senate on what we value, and what I we do not value.

I am sorry to say that the most basic premise of this budget, is wrong. This budget protects tax cuts for those who need them least, and cuts the health care, housing, and education of those who need the most.

It protects the largest tax cuts in our history, in the face of the largest deficits we have ever seen.

The priorities in this budget are wrong. I do not think they are the priorities of the vast majority of people in this country. I know that they are not my priorities.

Time and again during the week of debate, we have tried to provide funding for some priorities, and to reduce the money going to others.

During this debate, I offered an amendment to restore money for the COPS program that has put 100,000 policemen on the streets of our country. To cover those costs, I proposed closing loopholes used by corporations who move overseas to avoid paying taxes. But that amendment was voted down. Cops versus corporate tax breaks. Cops lose.

I voted to provide money for our veterans' health care, so sorely needed in these times. To pay for that, I was ready to close tax those tax loopholes. That amendment was voted down. Veterans versus corporate tax breaks. Veterans lose.

I voted to increase funding for first responders, our first line of defense against terrorism here at home. It was paid for by closing those loopholes. That amendment was rejected. Fighting terrorism versus corporate tax breaks. First responders lose.

I voted restore money for our national passenger rail system that carries 25 million people a year, for which not a dime has been put into this budget. But that amendment was voted down. Passenger rail versus corporate tax breaks. Passenger rail loses.

These and many other examples reveal the real priorities of this budget. Nothing makes that clearer than the outright rejection of the kind of common sense budget rules that helped us balance the budget during the 1990s.

Facing deficits of historical size, with no end in sight, most folks would consider it just common sense to set up some rules to rein this problem in. If you want to cut taxes, then cut spending to match. If you want to increase spending, you have to raise taxes to match.

Pay-as-you-go rules would require us to make tough choices, to take responsibility for our choices, and not just add to the mountains of debt we will dump on our children.

But not only does this budget reject those rules, it actually makes it easier to go deeper into debt, by protecting tax cuts, in time of record deficits. Senator FEINGOLD and Senator CARPER both offered amendments to correct that, and both amendments were rejected.

This budget is not just irresponsible, it is openly hostile to any attempt to make us live within our means.

This budget fails to address our most basic needs in these difficult times. It ducks our responsibility to pay for our own decisions. It does not reflect our Nation's priorities.

I urge my colleagues to join me in rejecting it.

Mrs. LINCOLN. Mr. President, today I rise to express my views on our budget and the priorities and ideas I believe we must focus on as a nation. First, I want to reiterate my extreme disappointment in President Bush's budget with respect to how it affects our rural communities. While reducing our Nation's historic deficit is essential, the burden and sacrifice shouldn't rest disproportionately on the backs of rural America—all Americans should share the burden. In my opinion, the President's budget relies too heavily on working families in rural America to make sacrifices while the President continues to advocate additional tax cuts for the ultrawealthy.

We have to find a responsible way for all Americans to share in this burden, and I think that my constituents stand ready to accept their share of that sacrifice. However, I am not going to ask the working families of this country to shoulder the entire burden. Rural programs are often the first programs on the chopping block, yet these are among the most important to our local communities and the economies they support. Our spending cuts must be balanced even if it requires rolling back the tax cuts for the ultrawealthy.

I have a long standing commitment to rural America and our Nation's farmers and I understand the challenges they face to maintain and strengthen their way of life. That is why I am so disappointed that this President has decided, through his budget, that our farmers and our rural communities are no longer a priority for him and his Administration.

I would like to take a few moments to focus on five areas where I believe the President failed rural America. The first area that the President's budget has come up short is with respect to rural law enforcement.

The President's budget cuts close to $1.9 billion in funding for local and state law enforcement and first responders. These cuts will be particularly crippling to rural law enforcement and inhibit a wide range of services including their ability to combat Arkansas' growing methamphetamine problem.

The President's budget includes a 27 percent cut, totaling approximately $455 million, in first responders funding. These cuts would hinder critical state and local efforts to protect our communities by making less funding available for the preparedness of first responders and citizens, public health, infrastructure security and other public safety activities. I am particularly concerned with how these cuts would affect the amount of federal Homeland Security funding provided to small and rural states such as Arkansas.

The President's budget includes a $215 million cut which would force rural fire departments to cut back on equipment purchase, safety training, fire prevention programs, and the purchase of new vehicles. These grants are especially important to Arkansas' rural and volunteer fire departments. Since 2001, the FIRE Act grant program has provided vital resources to many of Arkansas' 900 fire departments, 85 percent of which are voluntary. Since last Spring, more than 180 awards have been granted to Arkansas fire departments, totaling over $12 million.

Also, the President's budget proposes eliminating the Edward Byrne Memorial Justice Assistance Grant Program, which was budgeted at $536.5 million last year. I am deeply concerned with the elimination of this important program because it would significantly impact the ability of Arkansas law enforcement to combat the state's growing meth problem. The existence of 19 Drug Task Forces, funded by the Byrne Grants, are especially crucial in a state like Arkansas, which was recently ranked third in the nation, per capita, in terms of the number of meth labs seized and has recently seen the number of labs seized per year exceed 1,200.

The President's budget includes an 80 percent cut, totaling approximately $489 million, in COPS funding. Since Congress created this successful initiative with my support in 1994, the COPS Programs has assisted Arkansas law enforcement agencies in reducing violent crime across the state. In doing so, it has helped counties throughout Arkansas hire additional officers for community policing and homeland security activities by helping provide for their salaries and benefits. Since 1998, the Drug Enforcement Administration has used COPS funds for the training and certification of 379 state and local law enforcement officers as of June, 2004.

I want to make a special note of the fact that this budget cuts the COPS Methamphetamine Enforcement and Clean-Up by $32.5 million. These cuts would be greatly felt in Arkansas, where the use of methamphetamine is growing and has become the #1 priority for my state's drug law enforcement. COPS funding provided for the clean up and disposal of hazardous wastes found at 810 meth lab sites seized by Arkansas state and local law enforcement in 2003, and funded the cost which totaled more than $1.39 million.

The President's budget includes a 49 percent cut, totaling approximately $186 million, in Juvenile Justice Programs. These cuts would dramatically weaken the Juvenile Justice System, whose funds support state and local efforts to prevent juvenile delinquency and address juvenile crime. The President also seeks the elimination of the Juvenile Accountability Block Grants, JABG, which was funded by Congress in FY 2005 at $55 million. All of these cuts will significantly hamper rural law enforcement.

The second area where this President's budget short changes rural America is in healthcare. At a time when 45 million Americans are uninsured, the President's budget eliminates 28 important health programs, which total $1.369 billion. Two of the most important programs for rural health are Medicaid and the Area Health Education Centers or AHECs.

With respect to Medicaid, Arkansas will lose more than $560 million in Medicaid dollars over the next 10 years under the President's cuts. In 2010, Arkansas will lose more than $55 million. Mr. President, these cuts would cause more than 5,700 Arkansas seniors and 22,000 children to lose their healthcare coverage.

One of the most devastating cuts affects Arkansas' Area Health Education Centers. Arkansas has six such centers. The President's budget would eliminate these vital centers for health and health education.

The third area where this budget fails rural America is in regard to education. The President has proposed cutting education funding by $530 million nationwide. Such a funding cut would hurt rural school districts in Arkansas that rely on federal dollars such as Title I, which provides services to low income students. The President's cuts to Title I could affect more than 28,000 Arkansas children.

Arkansas school districts are already struggling to meet the demands of the new No Child Left Behind law, which the President has never fully funded, so now is not the time to cut such vital funding. I note with special interest that the President's budget proposes extending the No Child Left Behind law to high schools at the expense of eliminating 48 programs, including all the vocational and technical education programs, education technology state grants, GEAR UP, Safe and Drug-Free Schools initiatives and the Communities State Grants, TRIO Talent Search and Upward Bound programs.

This budget proposes funding Arkansas' program at $128 million, nearly $90 million less than what the No Child Left Behind Law calls for. This budget proposes funding Arkansas' After School program at $12 million below what No Child Left Behind mandates. This could affect more than 15,000 Arkansas children. On top of that the President's budget cuts IDEA funding by more than $37 million.

The fourth area where this budget fails rural America is in relation to economic development. The President's budget would drastically cut economic initiatives relied on by Arkansas' rural communities. The economic development initiatives specifically benefit communities in Arkansas of 3,000 or fewer residents.

The President's budget restructures how Community Development Block Grant (CDBG) Program grants are allocated. Last year, CDBG alone was funded at $4.8 billion. The President proposes to consolidate CDBG with 17 other local assistance programs and fund the entire group at $3.71 billion. This would make it more difficult for Arkansas' Department of Economic Development to compete for this type of funding. These cuts could severely impair the state's ability to provide grants to Arkansas' rural communities. In addition, this move would directly impact the 14 entitlement cities that receive CDBG funds (cities include: Bentonville, Conway, Fort Smith, Jonesboro, Rogers, Texarkana, Fayetteville, Hot Springs, Jacksonville, Little Rock, North Little Rock, Pine Bluff, Springdale, and West Memphis). CDBG funds have been used for a variety of projects in Arkansas, including senior citizen centers, public health facilities, childcare facilities, affordable housing rehabilitation and construction projects, and rural fire stations.

The fifth area where this budget fails rural America is with respect to agriculture. The fine print of the President's budget includes drastic cuts in farm and commodity programs that are vital to Arkansas' farmers. The President's proposed cuts would break a firm promise the Federal government has made to American farmers and ranchers. Furthermore, the President's proposed cuts in Food Stamps will severely impact rural Arkansans.

The President did not have to propose cuts in these programs. The entire farm bill is one-half percent of the Federal budget. Yet, he chose these cuts

that endanger entire communities in rural America. He chose to protect tax cuts for the ultra wealthy above our working farm families who are the backbone of rural America.

This should be a wake up call to the heartland of this country—many of whom supported President Bush's re-election. These programs have huge impacts on the quality of life in our rural communities. From his recent proposal to privatize Social Security, to these devastating cuts in his budget—the President has made it abundantly clear that he's going after working families in rural America.

Unfortunately, the FY 2006 Senate budget resolution we are debating today is only marginally better than the President's request. In my opinion, this resolution doesn't reflect the values and priorities of my state or the nation. The proposal before us ignores critical needs in my state and in rural communities across our nation. Specifically, the resolution, like the President's budget, would cut funding for Veterans, for education and training, for local law enforcement, for transportation and for agriculture and nutrition programs.

I am pleased we have made some improvements in the budget presented by the President during consideration in the Senate but unfortunately I believe the burden imposed by this budget still falls disproportionately on the backs of working families, especially those in rural communities throughout Arkansas and the nation.

Even though I am compelled to oppose the budget before the Senate today, I will continue to stand up for the priorities that are critical to the citizens of my state during the appropriations process ahead.

Mr. LEAHY. Mr. President, the President is setting a course that jettisons sound stewardship of fiscal policy and that ignores America's real needs, from education to first responders, and this budget resolution largely facilitates that reckless course.

Iraq's needs fare well in the President's spending priorities, but America's needs deserve to fare better. In record time, the administration's policies already have converted record surpluses into record deficits, and if these new policies are enacted, the worst is yet to come. More tax cuts for the wealthy, more borrowing, more deficits, and fewer investments in the priorities that really count in the everyday lives of America's families and communities.

We hear a lot in this town about ''compassionate conservatism.'' We hear speeches about declining family values and the breakdown of the traditional family. And we hear about streamlining Government and making it run more like a business based on cost-benefit analysis.

But the truth is, this budget before the Senate today is neither compassionate nor conservative. On the one hand it slashes, freezes, or totally eliminates funding for programs that help the poorest and the most vulnerable Americans, and on the other it uses smoke and mirrors to conceal the creation of a federal deficit larger than any other in our Nation's history.

This is a difficult time for many Americans, and this budget will only make things worse. Fifteen million American households cannot find affordable housing, yet this budget would force housing costs onto state and local governments.

Forty-four million Americans do not have health insurance, yet the budget that was brought to the floor would force the costs of Medicaid right back onto our cash-strapped State and local governments. I am pleased that we were able to soften this crushing blow to our states' Medicaid programs—for now—with a successful amendment. But there will be determined efforts to undo that vote at every step of the legislative process that lies ahead.

At a time when American companies are forced to hire from abroad because the students here lag behind in math and science skills, this budget would eliminate education programs by the dozen and severely underfund No Child Left Behind programs and funding for low-income schools. Perhaps most disturbingly, as we see more and more young troops coming back from Iraq and Afghanistan in need of long term medical and psychological care, this budget would dramatically reduce benefits and services to veterans.

I recently received a letter from a charitable organization that I believe does great work, Catholic Charities USA, describing their views on the proposed budget. I think it will surprise many members what they say. I ask unanimous consent that March 8, 2005, Catholic Charities letter addressed to me be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 8, 2005.

Hon. PATRICK J. LEAHY,
U.S. Senate, 433 Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: On behalf of Catholic Charities USA, I urge you to support budget priorities for FY2006 that will strengthen the capacity of states, localities, and private agencies to protect and assist the poorest and most vulnerable members of our society.

Although our economy has recovered somewhat from the economic recession that began in late 2000, increasing numbers of Americans ate facing significant hardship. Unemployment remains high, as over 9 percent of the working population is either unemployed or underemployed, according to the Bureau of Labor Statistics. Poverty rates are rising again, and 35 million people—including 12 million children—are now living under the federal poverty line.

For millions of families, the difficulties presented by the weak economy have been exacerbated by other challenges. Fifteen million American households cannot find affordable housing, while forty-four million people in the U.S. lack health insurance. High housing costs, unexpected health costs, chronic illnesses aggravated by inconsistent health care—these and other factors contribute to the economic instability experienced by many families.

We at Catholic Charities USA are witness to the human toll of the failure to address these problems adequately. For instance, our agencies, which provide food, shelter, and other forms of emergency assistance to 4.5 million people annually, are reporting strong increases in requests for emergency assistance, especially among families with children. According to the U.S. Conference of Mayors, our experience is not unique. Their 2004 survey of 27 cities revealed that requests for emergency food and shelter increased 14 and 6 percent, respectively.

We therefore urge you to produce a budget that will protect funding for critical services and supports to help the millions of families struggling to achieve stability and self-sufficiency. Every decision of economic policy, including the setting of national budget priorities, must be judged in light of its impact on those who do not share in the abundance of the American economy. At a time when the United States is spending more on defense and homeland security, a question arises about who will pay for it. It should not be our nation's poorest citizens. We therefore ask you to support the following budget priorities:

Place a priority on investments in federal programs that protect and support low-income families and other vulnerable populations. Funding for many poverty programs was already cut or frozen in 2005. Others, such as Temporary Assistance for Needy Families (TANF), the Child Care and Development Block Grant (CCDBG), and the Social Services Block Grant (SSBG) have been frozen since 1996. Congress should address the budget deficit in a fair and balanced way maintaining investments in our children, protecting programs assisting seniors and persons with disabilities, and enhancing our national security.

Oppose the inclusion of Medicaid cuts in fiscal year 2006 budget reconciliation: Medicaid provides essential health coverage to over 50 million of our most vulnerable low-income children, working families, seniors, and people with disabilities. Neatly every state has already enacted painful cuts to its Medicaid program, including eligibility levels, services, and provider payments, and many states are facing deep Medicaid cuts again this year. Federal funding reductions would force states to implement even deeper cuts further restricting eligibility, eliminating or reducing critical health benefits, and cutting or freezing provider reimbursement rates. As a result, state Medicaid funding cuts could add millions more people to the ranks of the uninsured who would go without care, endangering their own health and public health.

The budget resolution should not place arbitrary caps on discretionary spending. The Administration has proposed statutory rules to cap discretionary spending over the next five years at its proposed 2006 spending levels. Such caps would require cuts of $200 billion in spending for domestic programs over

the next five years, including funding for education, veterans' health care, rental assistance, utility assistance, and childcare. Such cuts would have a devastating impact on agencies and communities that are already struggling to meet the basic needs of vulnerable citizens.

We ask that Congress not attempt to balance the federal budget through reductions in discretionary programs assisting low-income families. Because domestic discretionary spending constitutes only 16 percent of the federal budget, even deep cuts in these programs would offer little help with the federal deficit, while sharply reducing assistance to families struggling to meet their basic needs.

If Pay-As-You-Go (PAYGO) rules are included in budget reconciliation, they should be balanced. If Congress chooses to reinstate PAYGO provisions, we urge that they be implemented in a neutral manner that does not encourage revenue reductions at the expense of critical programs serving the nation's most vulnerable families. Under the President's proposed PAYGO rules, entitlement program increases would have to be offset by entitlement reductions elsewhere. In contrast, tax reductions would require no offsets in the federal budget. This unbalanced policy would unfairly burden programs such as Medicaid that provide families with critical assistance, and would likely fail to achieve significant deficit reductions.

We recognize that Congress is faced with many difficult choices. In your deliberations, please remember those who have the fewest choices.

Respectfully,

FR. LARRY SNYDER.

Mr. LEAHY. Mr. President, what does this charitable religious group ask? Less funding for family planning efforts? No. More tax cuts for the wealthy? No. Tougher bankruptcy standards to help credit card companies? No. Class action relief for big corporations? No. Yet those have been the White House's and the Congress's priorities so far this year, and those are their priorities in this budget. But what this charitable religious group convincingly asks that we do is far different. They ask for the following: They ask Congress and the President to make a higher priority in the budget of federal programs that protect and support low-income families and other vulnerable people in our society. Oppose the inclusion of Medicaid cuts in Fiscal Year 2006 budget reconciliation. The budget resolution should not place arbitrary caps on discretionary spending. And if pay-as-you-go rules are included in budget reconciliation, they should be balanced.

Now, these sound like reasonable proposals that would help the neediest among us. Those sound like priorities that would benefit the 35 million people—including 12 million children—now living below the federal poverty line. These proposals truly sound compassionate.

Some claim that the cuts in this budget are steps toward fiscal responsibility. But anyone who looks closely at this budget will see that any semblance of fiscal responsibility is lost because this budget leaves out a number of Governmental costs in the outyears. It leaves out the costs of ongoing U.S. responsibilities in Iraq and Afghanistan. It leaves out the cost of any repair of the alternative minimum tax system. It leaves out the cost of extending the President's tax cuts. And most incredibly, it leaves out any of the expected $4.5 trillion in costs for the President's plan to privatize Social Security. With these costs factored in to the equation, the nonpartisan Congressional Budget Office predicts that by 2012, the United States deficit will reach $527 billion, making each family's share of the debt an astonishing $85,967.

I take very seriously this warning from the Government Accountability Office in their February 2005 report titled ''21st Century Challenges: Reexamining the Base of the Federal Government:''

> Absent significant changes on the spending and/or revenue sides of the budget, these long term deficits will encumber a growing share of federal resources and test the capacity of current and future generations to afford both today's and tomorrow's commitments. Continuing on this unsustainable path will gradually erode, if not suddenly damage, our economy, our standard of living and ultimately our national security.

This budget will plunge the United States into red ink as far as the eye can see. We have an obligation to be honest about the true costs of our budget to the people who are paying for it. If we continue to follow this path of fiscal irresponsibility, we will be leaving our children and grandchildren with a debt that they cannot possibly begin to afford. We need to turn around the massive loss in total revenues that we have seen during the Bush years. We need to strengthen our current Social Security system so that less money is drained from the trust fund. And we need to realign our budget priorities with the real needs of the American people and discard these politically motivated budget cuts.

I may be seen in this town as a progressive Senator from Vermont, but I have a conservative message for my colleagues today. We cannot continue down this reckless path of financial irresponsibility that we have been led down for the past four years. We need to get our fiscal house in order. Foreign investors are growing weary of our record debt. Our sons and daughters in uniform—including those in our National Guard and Reserves—are in harm's way overseas and need to be properly equipped and to have the health insurance they deserve. And essential programs for disadvantaged people across the country are being slashed to squeeze out more money for tax cuts to the wealthiest among us. This is not the American way. We are a more compassionate people than this budget resolution assumes we are.

The American people deserve better than fiscal and budget policies such as these, and I will vote against this budget resolution.

Mr. GREGG. Mr. President, much to my amazement, and I suspect that of the Senator from North Dakota, we are at the end of this exercise.

I will yield to the Senator from North Dakota for a closing comment. Before I do that, I want to thank the staffs on both sides, the majority staff and the Democratic staff. They have done exceptional work under extremely intense, very difficult conditions. They have worked night and day for weeks on this, and now in the last few days they have been going 24 hours a day.

I also thank the members of the staff of the Senate for their extreme courtesy and extraordinary professionalism. Amendments have been thrown at them in an aggressive way, and they have handled it well. We thank them for their professionalism.

I yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, very briefly, I thank Senator GREGG for the tone he set not only in committee, but on the floor. I thank his staff for their professionalism and cooperation. We have gotten to know them and have worked closely with them and have enjoyed the experience.

I thank Members of the Senate who worked cooperatively. Just hours ago, we could have been faced with being here until 3 o'clock in the morning. Senators on both sides of the aisle really cooperated to allow us to complete business at this hour.

With all of that said, I urge Members to oppose this budget resolution. As I read it, this budget would increase the deficit by over $200 billion over and above what would happen if we just put this entire Government on autopilot. In addition, as I read this budget, it increases the debt each and every year by over $600 billion.

Mr. President, this is at a time when we already have record deficits and soaring debt and are increasingly vulnerable to the decisions of foreign central banks, as we have increased our borrowing from them by nearly 100 percent in just 3 years.

Finally, I don't think this budget has the right priorities for America. This has a dramatic cut in the COPS program, virtually eliminating it. It has cuts in things like firefighters grants and, at the same time, substantial tax cuts for the very wealthiest among us, a tax cut of more than $35,000 for millionaires in 2006 alone. That is at a time when we are reducing funding for a whole series of national priorities, including veterans and education beyond what was authorized.

Again, let me conclude by thanking colleagues on both sides for the professionalism with which this debate has been conducted.

I yield the floor.

Mr. GREGG. Mr. President, let me add a note of appreciation to the majority leader and the assistant leader on our side and the Democratic leader and his assistant leader. They have done an exceptional job of helping us on the bill.

Let me especially thank the Senator from North Dakota for the expeditious and fair way this bill was handled. It

was, in large part, due to his extraordinary effort. I thank him for that. I thank his staff, led by Mary Naylor, and I thank Scott Gudes of my staff and the extraordinary team I have for the great work they have done.

This is not the perfect bill, not the bill I would choose had I controlled the magic wand. But it is a bill that is in the middle of the process, and, hopefully, it will evolve into a better bill as we go through the process.

I hope colleagues will join in passing it, as it is our obligation as a Government that we have a budget in order to guide the Government as we go forward.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. We will not end until the leader has worked things out, but the chairman was concluding his statement.

Mr. GREGG. My verbosity obviously got the best of me. I was concluded, and I thought it was an excellent conclusion. I appreciate the input of the Senator from Nevada. He brought it to an end at the appropriate time. I hope we can move forward.

Mr. CONRAD. Mr. President, I thank my staff very much for an extraordinary effort. Thank you very much.

Mr. REID. Mr. President, we cannot leave until the majority leader gets on the floor. We have to find out what we are going to do when we get back here.

Mr. BIDEN. We can check the RECORD. Let's vote.

Mr. REID. Does the leader have an idea what we are going to do when we get back?

Mr. FRIST. Mr. President, through the Chair, we are going to have a busy session when we get back. I would love to continue our discussion. We have a number of issues such as patient safety, and we have a couple of district judges that we need to do. We will see how far we get with welfare reform. We can have a busy 3 weeks.

Mr. REID. Tuesday will be our first vote?

Mr. FRIST. Tuesday would be our first vote, if we vote Tuesday. We would not vote on the first Monday back.

Mr. BYRD. Mr. President, may I inquire of the distinguished majority leader, will there be a session tomorrow?

Mr. FRIST. Mr. President, I have not had a full discussion with the Democratic leader about a session tomorrow. We can either have a discussion now or during the vote. We will discuss during the vote whether or not we will have a session.

Mr. BYRD. If we are not going to have a session, my first inquiry would be, how many days will the RECORD remain open for statements?

Mr. FRIST. Mr. President, through the Chair, in response to how many days the RECORD will be open, we will work that out as well during the vote.

Mr. BYRD. Mr. President, I ask unanimous consent that, upon the conclusion of the vote, I may be recognized to make some statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the concurrent resolution, as amended.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—51

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Frist	Santorum
Bunning	Graham	Sessions
Burns	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Warner

NAYS—49

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Landrieu	Schumer
Conrad	Lautenberg	Snowe
Corzine	Leahy	Stabenow
Dayton	Levin	Voinovich
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Mikulski	

The concurrent resolution (S. Con. Res. 18), as amended, was agreed to.

(The concurrent resolution will be printed in a future edition of the RECORD.)

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, the narrow 51–49 vote on the budget resolution we just passed reveals the delicate balance that our leadership forged between spending restraints and the funding priorities of the American people. On the one hand, there is a clear need to dry up the red ink which threatens to plague our children, their children and generations to come. As the author of the Balanced Budget Constitutional amendment I am clearly aware of the need to maintain fiscal discipline.

At the same time, I also have a responsibility to the citizens of UT to make certain that important programs in our state receive the funding they need to operate on a sound basis.

Today, we cast many difficult votes which forced us to choose between those two competing priorities. One of those votes was on the Smith Medicaid amendment. I am extremely concerned about the $60 billion reduction in proposed spending growth for Medicaid in the President's budget. At the same time, it is important to note that even under the President's budget, Medicaid is projected to grow about 7 percent per year.

I feel that it is incumbent upon the Finance Committee and its members, Secretary Mike Leavitt and the President to work with States and communities to ensure that we preserve the safety net Medicaid offers to the elderly, the disabled and the low income. I have pledged to Chairman CHUCK GRASSLEY and Secretary Leavitt that I will work with them to ensure that there is adequate funding for this vital program. I am very concerned that we do right by this program which helps so many, many Utahns each year. We can't allow it to be torn apart.

Another difficult amendment facing the Senate today was the amendment offered by Senator NORM COLEMAN to restore funding in the budget for the Community Development Block Grant program, CDBG. As my colleagues are aware, I wrote to the Budget Committee and urged strongly that they include adequate room for the appropriators to fund the CDBG program. I was very disappointed that funding was not reflected in the budget reported by the Senate Budget Committee.

I consider the Community Development Block grant program to be an effective tool and an extremely important program for communities throughout the State of Utah. I feel it is important to note that the purpose of the Budget Resolution is to set out the framework for the FY 2006 priorities which will determine the allocations provided to each of the Appropriations Subcommittees. We all know it is very difficult to begin the appropriations process without having a budget in place to guide our work. Whether or not the final budget agreement which emerges from the House-Senate conference includes an explicit funding reference for the CDBG or not, action will turn to the Appropriations Committee which has the full authority, and indeed the responsibility, to provide funding for this program.

Let me make it perfectly clear to the communities in Utah that I will not drop my fight to secure adequate funding for the CDBG.

I want to assure my colleagues that my votes on the budget today do not reflect any lessened commitment on my part to the CDBG, Medicaid or other vital programs in UT.

Mr. DODD. Mr. President, I rise today to talk about the budget resolution that the Senate just voted on.

This budget is irresponsible and takes the country in the wrong direction. It adds to our Nation's debt, continues to slash taxes for those in our Nation who least need tax breaks, and would enact massive cuts in critical domestic priorities. And it is for these reasons that I was unable to support this budget resolution.

The budget of the United States is a declaration of our Nation's moral priorities. It is a statement of where our Nation is now, and where we aim to be, years down the line. On all of these counts, this budget fails to reflect this Nation's values.

I know that Members of this body have strong differences on our budget priorities, but I think that we can all agree on the following two items. First, that our Nation is currently experiencing record-high deficits.

Second, that these deficits are impeding our ability to meet our needs in education, transportation, communication, health care, national security, and homeland security. There are strong views on both sides on how we got here. I believe that our change from record surpluses to record deficits was not an accident, nor was it a product of unforeseen events, but was a direct result of the fiscal policies pursued by the current administration. This result was not unforseen, not unexpected, and in some corridors even desired since there are those who have told us that deficits are ''good'' on the theory that chronically high deficits will preclude what they consider to be unwise and wasteful government spending, by which they mean spending on education, transportation, research and development, among other priorities.

Unfortunately, the budget that just passed does not in good faith address our record deficits. In fact, it worsens our Nation's fiscal health. This budget is a continuation of the reckless and unfair policies that have been pushed forward by this administration since its first days in office, and by its supporters in Congress. The majority's budget resolution would make deficits and debt worse, not better as they have claimed. Over the next 5 years, this budget proposal would increase deficits by $130 billion over what they would be under current law. And while the majority claims to be cutting the deficit in half with this budget resolution, I am afraid that that this assertion is false. This budget resolution actually leaves out large and significant costs, and in so doing masks the true size of the deficit.

The reality of the fact is that when omitted costs are factored in, such as the 10-year cost of AMT reform, $770 billion, and ongoing war costs, $380 billion, the operating deficits will remain above $500 billion and climb to $569 billion in 2010. These figures do not include the President's Social Security privatization plan, which would likely add an additional $4.4 trillion over 20 years to the national debt.

To make matters worse, by failing to provide estimates of the effects of its proposals beyond 2010, this budget resolution, obscures the fact that its tax cuts would increase the deficit by a much larger amount in the second 5 years—2011 through 2015—than in the first 5 years—2006 through 2010. According to the Congressional Budget Office, the tax cuts proposed in the budget would increase the deficit by another $1.4 trillion from 2011 through 2015.

The national debt would continue to skyrocket under this budget resolution. In 2001, when President Bush took office we were actually having serious conversations about paying off the national debt by 2008. Under this budget resolution, including the costs of AMT reform and ongoing war costs, we will see the publicly held debt go from its current level of $4.3 trillion to at least $5.9 trillion by 2008. In 2001, this would have seemed inconceivable. This budget resolution also includes a reconciliation instruction for a $446 billion debt increase which means that a debt increase could happen in an expedited manner without affording the Senate full and proper consideration. While there was an amendment to remove the reconciliation instruction on the debt increase, it unfortunately did not pass.

Over the past few years, the administration has told us that figures like the deficit and the national debt are merely numbers that have little impact on Americans' lives. This is yet another reflection of an administration out of touch with reality.

What will be the ultimate result of our record budget and trade deficits? Higher interest rates on small business loans, families' mortgages, and education loans. These amount to a tax hike on working families and small businesses.

Americans may wonder, how does their government finance these deficits? The answer is that our government does much what many families or businesses do when faced with bills they can't pay—we borrow money. The money our government spends has to come from somewhere—and with each passing year, more and more of it comes from foreign nations.

Since President Bush took office, foreign debt holdings have increased almost 100 percent. We now owe $700 billion to Japan, $200 billion to China, and $69 billion to South Korea. This makes us more vulnerable to the decisions of foreign central bankers since they can decide that it's time to collect their debt—and we will have to pay up. If this were to happen, the implications for our economy would be catastrophic.

The majority had an opportunity this week to truly tackle the skyrocketing deficit—by restoring a strong pay-as-you-go rule, PAYGO, that would require any new mandatory spending or tax legislation to be paid for, or require 60 votes to pass. In 1983, I was one of the first Senators to offer a pay-as-you-go budget. It is smart budgeting; it works. One major reason why we were able to move from deficit to surplus in the 1990s is because we had a strong PAYGO rule. Unfortunately, the majority refused to support this important amendment this week, thereby sending a message that it is okay that we continue to drown in deficits.

As I said at the outset, the budget that the Senate just passed is not just a fiscal document. It is a statement about the majority's values. And just as this budget is fiscally irresponsible, it is also morally irresponsible.

This budget will cause pain and debilitation to working families throughout our country. In essence this budget tells working families that they need to do more with less. This budget tells them that as a nation we just do not have money to buy new computers for schools, to provide better health care, to provide services to the poor, the sick, the frail, and the elderly. This is appalling, but what makes it even more so is that at the same time, this budget turns around to the affluent of this country and gives more to them. This budget finds room to include tax cuts for millionaires, but does not have enough for the needs of middle-class families.

Despite record deficits and debt, and despite our efforts to address this, the budget before us provides for another $70 billion in tax cuts over 5 years using the ''reconciliation'' process which is a fast-track process that ensures that such legislation would need 51, rather than 60 votes to pass. ''Reconciliation'' was originally established to ensure fiscal responsibility, and here the majority is now using it to extend the tax cuts on dividends and capital gains. These tax breaks, which would average $35,000 a year, would disproportionately go to households that have incomes in excess of $1 million, a group that constitutes only 0.2 percent of all households.

Such policies will bankrupt the country and unfairly place the burden on the backs of middle-class workers. I strongly believe that this budget sets us on a dangerous course when we consider the challenges we face in the coming years.

In the global economy of the 21st century, America faces ever-increasing competition from foreign nations. How we fare in that competition will be a direct consequence of our willingness to make concrete investments in the capabilities of our greatest and most abundant resource: the American people.

Investing in the American people begins with ensuring each and every American receives a quality education. A quality education—beginning when a child is only a few years old, and continuing through college and beyond—is the key that opens the doorway to a lifetime of opportunity. Our competitors—nations like India and China—have realized that. They are making serious investments in the intellectual capacity of their citizens.

What are we doing?

One in every three programs slated for elimination in the President's budget are education programs. Aside from the eliminations, No Child Left Behind is underfunded by $12 billion, special education is underfunded by $3.6 billion, and afterschool programs are underfunded by $1.25 billion. How does the administration expect schools to raise the level of achievement for students without the resources needed to do it?

In today's global economy, we can ill afford to give our children any less than the best education available. As I have said many times before, education may be expensive but ignorance costs even more.

I was also appalled when I saw how little this budget provides for concrete investments in scientific progress.

In real terms, the total Federal R&D portfolio would decline for the first time since 1996. Total Federal support of research—basic and applied—would fall 0.6 percent to $54.8 billion.

The proposed Federal Research and Development portfolio in fiscal year 2006 is $132.3 billion, 0.6 percent or $733 million above this year's funding level, far short of the $2.2 billion increase needed to keep pace with inflation.

In many respects, I feel as if those who wrote this budget have forgotten the lessons of history. If we look at the groundbreaking scientific innovations over the past two centuries, we learn that an overwhelming number of them have been inextricably linked to real investments this Nation has made in research and development.

Where will we see the next great scientific achievement? Will it be here in the United States? Or will it be in China? Or England? Or Japan? Or Italy? The answer to that question lies in our willingness to make the right choices. Unfortunately, this budget does just the opposite.

While the budget contains an overall shortfall in R&D funding, I am pleased, however, that an amendment that was introduced by our colleague Senator GEORGE ALLEN and myself was accepted and included in the budget resolution. The budget had proposed to cut over $700 million out of NASA's Aeronautics budget over the next five years. Our amendment increases subsonic and hypersonic aeronautics research and development funding by $1.58 billion over 5 years, with an offset.

Aerospace and aviation are important assets for America and for my home State of Connecticut. In addition to its obvious national security benefits, the aeronautics industry makes a critical contribution to our Nation's economic growth and standard of living. We cannot continue to just give the minimum to aeronautics research and development if we want to be able to effectively compete in aeronautics and in the world economy. Acceptance of this amendment is a step forward in demonstrating that the United States is committed to our aviation and aeronautics industry and innovation.

If I listed every area in which this budget fails our Nation, I would be here much longer than my allotted time. But I would like to quickly outline just a few more of the critical priorities that this budget has shortchanged in order to provide tax cuts for millionaires:

Veterans funding would by cut by $14.5 billion. This administration constantly preaches the rhetoric of supporting our troops, yet it has consistently come up short when it comes to meeting the needs of those who have made great sacrifices for our freedoms.

Just as this budget fails those who protected our freedoms abroad, it endangers those who keep us safe here at home. It cuts firefighter assistance grants—grants that have helped fire departments buy new trucks, safety equipment, radios, hazmat suits—by 31 percent. It cuts funding for the COPS program—which supports police officers throughout our nation—by 96 percent.

We have known since the first roads of the Roman Empire that the fate of nations hinges in many respects on their ability to move people, goods, and services as efficiently as possible. Yet this budget cuts $15.9 billion in transportation funding.

Reductions in natural resource and environmental programs would total $29 billion over five years. This budget also fails to protect the Arctic refuge from drilling.

The budget also cuts child care assistance for 300,000 children through 2009. It is absurd to be cutting child care assistance for struggling parents at the same time that the President proposes that more low-income parents work longer hours. It is not just absurd, it is irresponsible. If you want welfare reform, you simply must have child care, as well.

This budget would terminate the Community Services Block Grant, leaving working poor families affected by the President's budget cuts with nowhere to turn for assistance.

I know that we can do better than this budget. Actually, we must do better, so that we can truly move our country forward, and do what is best for families everywhere.

HORIZON MINERS

Mr. BYRD. Mr. President, Smithers, WV, is a town of 904 residents on the banks of the Kanawha River, just outside of the state capitol of Charleston. Last October some 1,500 active coal miners and retirees, along with their wives, their children, their families, sat inside a hot and crowded gymnasium trying to cope with how, in a few short weeks, their lives had been turned upside down.

Two months earlier, a bankruptcy judge whom they had never met, and who resides in another state, vitiated their collective bargaining agreement. In West Virginia, this judge cost 270 active miners their jobs, and, along with 1,270 retirees and their dependents, rescinded their health benefits. These folks gathered in that gymnasium trying to understand what had happened and what could be done.

They are the Horizon miners. They are good, strong people. They devote themselves to their labors, and take pride in their work. They are committed, hardworking individuals who contribute much and ask for nothing more than simple fairness. And so imagine how they are made to feel, the anguish, frustration, and betrayal they are made to feel, when they learn the health benefits they labored for, the job security they I toiled for, has been taken away.

One can hardly blame these workers for feeling as though the world has ganged up on them. Their former employer, Horizon Natural Resources, for which they loyally worked for many years, had lobbied intensely in bankruptcy court to eliminate the health benefits of its own employees. In a U.S. court, where every honest man should expect a fair shake from an impartial judge, these workers were betrayed by the judicial system.

The judge, with the rap of a gavel, vitiated the 1992 Coal Industry Retiree Health Benefit Act, legislation passed by the Congress and signed by the President, to provide qualified coal miners with guaranteed health benefits, a promise dating back to President Harry S. Truman's pledge to John L. Lewis in 1946. One judge overturned a 60-year-old promise that had been codified by the Congress and endorsed by three Presidents. It was a disgraceful, shameful act.

These Horizon coal miners, betrayed by their employer, beguiled by the courts, now turn to their elected representatives in the Congress for help. And, thanks in large part to the efforts of Congressman NICK RAHALL and Senators ROCKEFELLER and SPECTER, the Senate is in a position to get something done.

Building on Senator ROCKEFELLER's efforts, Senator SPECTER has introduced legislation to help the Horizon miners. I urge the Judiciary Committee to take a careful look at that legislation. I urge the committee to hold hearings, and to listen to the plight of those coal miners and their families affected by Horizon's bankruptcy. This is an issue that affects not just the Horizon coal miners, but workers across the Nation who have seen their pension and health benefits taken from them.

It is happening across West Virginia. It is happening across the Appalachian region. It is happening in Indiana, Kentucky, and Illinois. In West Virginia, it is affecting elderly workers who are near retirement. What security they had is gone. What they had been promised, they have no time to get back. In such circumstances, it is incumbent upon the Congress to take action.

I urge the Finance Committee, as well as the Judiciary Committee, to consider these issues. I urge both committees to hold hearings and solicit

testimony from those workers affected. The chairman of the Finance Committee has said that his committee ought to look at the issues raised by Senators SPECTER and ROCKEFELLER in the context of a comprehensive review and a comprehensive solution. That makes sense, and I am encouraged by his statement.

Abraham Lincoln reminds us that ''Inasmuch [as] most good things are produced by labor, it follows that [all] such things of right belong to those whose labor has produced them.''

The Horizon miners labored for their health benefits, and they ought by right have them. Let us organize our efforts. Let us build momentum, and let us, at long last, take a stand in defense of the men and women who epitomize America's time-honored work ethic.

LIONS AND LAMBS

Mr. BYRD. Mr. President, this Sunday is special for two reasons. It is the first day of spring and it is also Palm Sunday, the beginning of the Christian Holy Week. Both events mark triumphant arrivals, of Jesus into Jerusalem, and the start of the season of rebirth, of lengthening days, warm earth, and growing things.

At this time of year, many people quote an adage to the effect that ''March comes in like a lion, and goes out like a lamb.'' An unknown poet said it better:

The March wind roars
Like a lion in the sky,
And makes us shiver
As he passes by.

When winds are soft,
And the days are warm and clear,
Just like a gentle lamb,
Then spring is here.

The exact origins of the March saying are not clear. Observers of the weather may assert that the saying reflects common springtime weather patterns, when shifting pressure gradients create the strong gusty winds so closely associated with March. Indeed, March marks the beginning of the tornado season in North America. We have certainly seen some strong cold winds recently, shaking the few remaining dry brown leaves out of the trees and whirling them across lawns and roads. Daffodils and crocus have been lured into bloom only to be buried under snow or ice. This year, winter is still roaring in March, with howling winds, snowstorms, ice, and rain across the nation. The poet Henry Van Dyke (1852–1933) once observed that:

The first day of spring is one thing, and first spring day is another. The difference between them is sometimes as great as a month.

We can but hope that the gentle lamb-like weather arrives soon.

Some skywatchers believe the adage has a heavenly source. They point out that the constellation Leo, the lion, is rising in the eastern horizon at the beginning of March, hence the ''coming in like a lion,'' while Aries, the ram, sets on the western horizon at the end of March, and so ''departs like a lamb.'' Some Christian observers point out that March is typically a Lenten month, in which Jesus, the Lamb of God, is sacrificed on the cross, only to return in the future as the Lion of Judah to rule over the world of men.

I do not know which theory is correct, but each is plausible and intriguing. They provide food for thought as gardeners rake out flower beds and till vegetable plots on the warm, sunny afternoons that crop out amid the rain and late snow flurries. They reassure us that, whichever is true, the world is behaving normally. If we are only patient a little while longer, the March winds will push winter along and leave the glorious spring in their wake.

Age is supposed to bring with it patience, but I find that each year I am just as eager for spring to arrive as I was when I was a boy. I may be even more eager than I was as a boy, since snowball fights and sledding down hills have been replaced with shoveling walks, scraping icy windshields, and higher heating bills. I am ready to shed my winter coat, ready to feel the sun on my face, ready to see the flowers bloom and the grass grow. I am ready to plant a few tomatos. I may not run through the fields and woods anymore, but I like to sit outside with my wife, Erma, and watch our little dog explore the backyard. I look forward to watching my grandchildren hunt for Easter eggs in the soft, new grass.

The vernal equinox marks the first day of spring, the perfect balance of light and dark, day and night. On Sunday, for the first time each year, day and night are equal. But then the sun triumphs over the dark days of winter. Each day through the spring, the period of sunlight grows a little longer, like the grass in the yard. Each day, the birds start singing a little earlier, and continue their song just a little later in the evening.

For winter's rains and ruins are over,
And all the season of snows and sins;
The days dividing lover and lover,
The light that loses, the night that wins;
And time remembered is grief forgotten
And frosts are slain and flowers begotten,
And in green underwood and cover Blossom
by blossom the spring begins.

So wrote the poet Algernon Charles Swinburne—1837–1909—in his 1965 poem, ''Atalanta in Calydon.'' In March, the daffodils, crocus, and forsythia bloom, adding their springtime yellow and Lenten purple to winter's faded palette of gray and brown. But look closely, and you can see buds swelling into life on twigs and branches. Vibrant reddish buds reassure gardeners that the roses came through the winter, and will soon grace us with their beauty and sweet fragrance. The glorious parade of bloom and blossom will soon begin.

It seems more than happy coincidence that Easter is a springtime event. Like spring itself, the story of Easter is one of rebirth, of light triumphing over darkness. Palm Sunday, the arrival of Jesus into Jerusalem those many years ago, is shadowed with the knowledge of the dark days to come—Jesus' betrayal, capture, and tortured procession with the cross on his back and crown of thorns on his brow. But after his death comes his resurrection and ascension, his rise from the darkness of the tomb to the light of Heaven.

Each spring, as we relive his great sacrifice for us, we can rejoice in his great promise of rebirth, even as we are surrounded by the earth's rebirth.

The celebration of birth and growth persists even in the most commercialized aspects of today's Easter celebration. Like the March winds adage, the origins of the Easter egg have been lost to time, but for untold centuries, eggs have symbolized fertility, resurrection and new life. The ancient Greeks, Persians, and Chinese exchanged eggs during their spring festivals. Some pagan traditions held that Heaven and Earth were formed from two halves of an egg.

Christian traditions have adapted this ancient symbol to the Easter ritual, wedding the ideas of earthly rebirth to spiritual resurrection. Once forbidden during Lent in the Middle Ages, eggs reappeared on Easter Sunday on the dinner table as well as being given as gifts. In Greece, eggs are dyed red to represent the blood of Christ. In Germany and Austria, green eggs are exchanged on Maundy, or Holy, Thursday. Many cultures have developed elaborate decorations for blown or hardboiled eggs, from the graphic Russian 'pysanki' eggs to those with religious symbols and scenes carefully painted on them.

Whatever the tradition, Easter eggs remain a springtime delight. The fun of making them is overcome only by the fun of hiding them and watching small hands tightly clutching decorated baskets loaded with their brightly colored bounty. Of course, today's Easter baskets are also filled with chocolate eggs, jelly beans, and marshmallow treats—some 90 million chocolate Easter bunnies, 700 million marshmallow Peeps, and 16 billion jellybeans each year, according to some reports. Older Easter food traditions, such as the hot cross buns once given to the poor by monks, and pretzels, with crossed arms resembling a person at prayer, have fallen from favor before this onslaught of sugar.

As Erma and I watch our children, our children's children, and now, our great-grandchildren, continue this happy custom, we are thankful once again for these, our blessings. Their new lives, like those of children everywhere, are treasured gifts. On this coming Easter, in this first week of spring, I know I am not alone in giving thanks.

I close with a short poem by Louise Seymour Jones, called ''Who Loves a Garden.'' In just a few lines, she marries the spheres of heaven and earth,

the greening of the land, the rebirth of the flowers as well as the spirit, and work that is a labor of love.

WHO LOVES A GARDEN

Who loves a garden
Finds within his soul
Life's whole;
He hears the anthem of the soil
While ingrates toil;
And sees beyond his little sphere
He waving fronds of heaven, clear.

Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Can the Chair inform the Senate as to how many days speeches will be received for printing in the RECORD before the recess formally begins?

The PRESIDING OFFICER. The Chair is not in a position at this point to share with the Senator what that may be, but it is our hope that it will be available soon.

Mr. BYRD. Very well. I am informed, Mr. President, that the Senate will be in this coming Monday for a brief period for acceptance of speeches only. Yes. All right. I thank the Chair. That answers my question sufficiently.

Mr. President, I thank all Senators, I thank the staff, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

TERRI SCHIAVO

Mr. SANTORUM. Thank you, Mr. President.

Today we had an opportunity to discuss and pass a very important piece of legislation. Most people would think I am referring to the budget, which we spent the better part of the day on, but we spent 15 precious minutes talking about an issue that many Americans are thinking about tonight; that is, the case of Terri Schiavo in the State of Florida. I wanted to congratulate my colleague from Florida, Senator MARTINEZ, for his effort in drafting the piece of legislation that could get, frankly, the impossible done—to get in the midst of an at times rancorous budget debate—a very unique consensus in this place, unique in this respect: 100 Senators had to agree to pass this bill. It is difficult enough to get 100 people, much less 100 Senators, to agree to do anything, particularly during an often difficult process that we have been going through, but not only did we get 100 Senators to agree to allow this bill to be passed, but we did so when some Members on the other side of the aisle were not supporting the bill. That is somewhat remarkable.

I give a lot of credit to the Senator from Florida, Senator MARTINEZ, the two leaders, the ranking member of the Budget Committee, Senator CONRAD, Senator HARKIN, and others who worked to bring this issue to the Senate floor and to deal with it in a way that accomplished something vitally important; that is, giving the family of Terri Schiavo hope that the end will not begin tomorrow.

I will talk more specifically about it. I will yield to my colleague, Senator MARTINEZ, and Senator BROWNBACK. Both have been obviously incredibly active and helpful.

We are still working this process. The House has passed one bill, and we have passed a different one. I have been, as well as many here in this Chamber, back and forth between the House. I missed the next to the last vote because of meetings I was having over in the House. I never like to miss a vote, but I guess if we miss a vote, this is probably as good a reason to miss one.

We are still working very hard to see if we can find some common ground so we can address this issue that is so vitally important—not allowing a death sentence to be handed down to a young woman without a Federal court review.

We are working here on the Senate side very diligently. Not only do we work together to pass the bill Senator MARTINEZ authored, but we are working on the House bill. There will be meetings tomorrow with several Members of the Senate who have concerns about that bill to determine whether there is a possibility that we can, in fact, accept the House bill on this side of the aisle. Those meetings will take place tomorrow, and we will have a session on Monday in which we can potentially, if we get an agreement, pass that bill. But that is something we are going to work on.

I can tell you, having spoken to both Senator REID and Senator DURBIN, and others on the other side of the aisle—they have helped us arrange meetings with Members who have concerns about that issue, the House bill on the Democratic side of the aisle. We are putting those meetings together. We are going to have those discussions, we are going to see if this is something that can be acceptable and passed, and again we have to pass with unanimous consent. That process is underway.

Many in this Chamber believe the House bill is a superior way to go. I know the House strongly feels that way. Relief provided in the House bill does something that is essential; that is, take the case out of the hands of the judge who seems determined to end the life of Terri Schiavo. Removing that case from that judge into the Federal court is the most effective way to get a fair hearing. I think that has a lot of merit.

We are hopeful we can have this good discussion. But I will tell you we have had an air of cooperation here in the Senate that, candidly, was heartwarming. We sort of got past not just the particulars, because I don't think there is any politics in this, but even some of the philosophical and policy concerns that people have and understood the genuine concern that many Members here have for the evolving situation in Florida.

I commend my colleagues. This was a very fine moment for the Senate. It is continuing to be that as we continue to search for an answer—an answer that can get the House and the Senate together. I am hopeful that the House will do likewise, will reflect on the Senate bill. I know it is a very difficult row to hoe for the House.

We will be back in session on Monday. The House will be back in session on Monday. Again, I don't know whether we will be able to get anything solved by then. But I will tell you at least on the Senate side we will continue to work on that. We will continue to see if we can find some common ground. I am hopeful we will be able to reach—in fact, we must reach a conclusion.

It would be unconscionable to leave with both parties having expressed a will to do something. Both bodies with identical intent and cannot find the words to come together to accomplish that joint intent that has passed overwhelmingly in both Chambers. That would be a crime on top of a crime that is being committed in the State of Florida.

I am happy to yield to the Senator from Florida.

Mr. MARTINEZ. Mr. President, I thank my colleague from Pennsylvania for the incredible work he has been doing on behalf of this woman in Florida. His guidance and leadership have been a great sign to me of how effective a Senate can be and how compassionate a heart can be as well. I echo his comments in terms of the cooperation in the Senate.

I believe today Members of both parties came together to pass a bill that is designed to ensure this woman has an opportunity to have a review of her case by a Federal judge in the hopes that maybe her parents may prevail, but whatever the outcome may be, so she may have and we may be assured that every last measure of justice has been given to her.

I also am very pleased the House of Representatives acted swiftly outside normal procedure in order to make this happen. I am very grateful for their work. I am grateful for what they did. It is unfortunate we came at it because of the rush of business over the last several days, the very shortened period of time we had available to end up with two versions of this bill that differ. Their approach, which is a removal of approach, is not specific to any one individual. I know the House, for very good reasons, for historical reasons of good faith and for very good reasons, has had a reticence to do a private or individual bill. I understand that concern. I also know how difficult it was for some Members on the other side of the aisle particularly to go along with that measure because it was interpreted by some to maybe be too broad.

We are acting in good faith, and their concerns were, again, reasonable, while maybe I would disagree with them. Unfortunately, the only vehicle we could find in this very short timeframe was to utilize the bill we had in the Senate

which found favor enough for there to be unanimous consent to proceed.

A number of inquiries have been made whether this is over. It is not. We continue to work diligently. We continue to work toward a solution, toward bringing the two bodies together so we can get a bill to the President. I am encouraged the President today has made it clear he will sign a bill if we get it to him. We must continue to work in this spirit of cooperation, not only among both sides of the aisle, majority and minority in the Senate, but also across this building, one end to the other, House and Senate, all intent on a result that will give this final review by a Federal court the opportunity for this woman to have that final measure of compassion, and at the end I am hopeful we will reach a solution.

As my colleague from Pennsylvania stated, we will be in session on Monday, and we will continue to work and negotiate on this over the weekend, tomorrow, and I am very hopeful we will find a solution. I am an optimist, and I am of the belief that we will be able to prevail in this matter. I am very grateful for the help and cooperation from our leader, who has been working very diligently, who did the research medically, who became convinced about this case. I have had Members from both sides of the aisle say all day there is something about this case, that it seems like it ought to have one more review. That is the spirit in which we say this.

I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I join my colleagues from Pennsylvania and Florida to talk about Terri Schiavo's case, and to the names of the people around the world who are praying for Terri Schiavo, a lady they have never known. They have seen pictures of her on television, but something is just striking at them, saying, this woman deserves to live. She deserves to have another review. The covenant with death needs to be broken, and will be.

This body has spoken tonight in a bipartisan, unanimous fashion to work on this. There are a lot of opinions on the factual and legal issues surrounding it, but we came together unanimously to give her that right to have one more review by a Federal court.

I thank Senator REID from Nevada, who was very helpful in working this, Senator WYDEN, who worked on things for his State, and Senator LEVIN. A number of people helped to make this move forward, and Senator MARTINEZ carried the freight with Senator SANTORUM.

This is a fine moment for this body, but it should not end here. I plead with those people involved directly, the courts directly involved in this, let this process move forward. Don't pull the tubes out tomorrow. We passed one bill in the House and one bill in the Senate. That should be extraordinary enough that they say this deserves one more look. Why wouldn't we give one more look? This is a purely innocent life we are talking about. The lengths we will go to for people who are convicted of a crime—we give much further review by a court of law. Here is a purely innocent life. Tomorrow, this could all end. But it shouldn't. It must not end that way.

We have some differences between the House and Senate version. Frankly, for myself, I think the House version is good. We could not move that through. We will keep meeting here. I met with the House leadership and chairman in the House with concerns, feeling theirs is a better approach. That is accurate. That is the way to go.

We are at a point in time where we should no longer have debate. We have to try to come together and plead with the court to hold this off so we can get moving. And more than that, a moral code in America right now is being discussed and is being acted upon through one person's life. It is so critical this be done right and be done thoughtfully and every chance for final review be given for an innocent life. A purely innocent life is at stake.

I am confident we can come forward with that. We must come forward with that for the sake of Terri Schiavo and for the sake of this country and for its message around the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

STATUS OF U.S. AND EUROPEAN UNION AIRCRAFT FINANCING NEGOTIATIONS

Ms. CANTWELL. Mr. President, today the President of the United States nominated former Representative Rob Portman to serve as our next U.S. representative and trade ambassador. I am hopeful that my colleagues on the Senate Finance Committee will move expeditiously to hold a hearing and approve his nomination as soon as possible.

In January of this year, the current U.S. trade representative and a team of European Union negotiators agreed to sit down to try to negotiate a new agreement for how aerospace markets will work in the future. We are 60-days into the 90-day period that they set for their own discussions. Even though our current trade representative, Ambassador Zoellick, has been confirmed as Deputy Secretary of State, he is going to continue negotiating on behalf of the U.S. Government. I know these negotiations are in very capable hands, and I applaud the aggressive stance being taken by the Administration on these trade talks.

These trade talks were entered into by both sides knowing full well that World Trade Organization sanctions were a real possibility if the playing field in aerospace does not become fairer. Both sides demonstrated a willingness to get rid of unfair subsidies and a good faith stance on both sides to negotiate. That is why I come to the Senate floor now to make sure the European Union knows we in the United States Senate remain very committed to these discussions. We are also very concerned that they are not at the table in good faith, if in fact the clock is ticking away and we are not making progress towards the goal of eliminating unfair subsidized financing of airplanes.

That 90-day clock is indeed ticking, and if a settlement is going to be reached on this matter without WTO intervention, it needs to happen immediately. There are fewer than 30 days left in the agreed time frame.

From the news reports, these discussions seem to be at a standstill. Obviously, these discussions need to be reenergized and, hopefully, achieve a successful end result. Otherwise, as I have mentioned, the parties will be forced into a WTO battle, and I am sure Congress will consider other tools that are at our disposal, as the administration continues to seek swift and firm action in this case.

To date, the Bush administration and the trade negotiators have shown solid leadership and strong resolve, first in bringing this case to the WTO last fall. Second, it approached subsequent negotiations with the EU in a serious commitment to reach an end resolution.

I have to say, in the beginning it seemed that the Europeans were equally interested in a settlement because Commissioner Mandelson, the European Union's chief negotiator, signaled in a public comment, ''We need to make progress, and I intend to do so.'' This was reported by the Bloomberg News Service. He also said: ''The objectives of the negotiations are primarily to establish fair market-based competition between Boeing and Airbus.''

Despite these public comments, EU negotiator actions and subsequent rhetoric suggest something different than ending unfair subsidized financing. Instead of a genuine commitment to end subsidies, the Europeans have walked away from their commitment to this goal.

Now, it seems that the discussions may be dragged out over a much longer period of time, maybe avoiding resolution or delaying a path to actually eliminating these subsidies. It is very important that the EU meet its commitment to end these negotiations on time.

When these parties reached an initial accord in 1992, a number of important issues were unresolved. We do not want to make the same mistake this time by leaving too much on the table, only to see the WTO come in, in a process that we know will be more of a winner-take-all process.

In particular, EU negotiators must remain intent in staying at the table to discuss the issue of launch aid, the single most troublesome issue that I think we need to discuss. The United

States cannot stand by while the EU stalls these discussions about launch aid.

Today, we all know the aerospace industry remains very important to the United States. The aerospace sector generates about 15 percent of our Nation's gross domestic product. However, I think the real issue for us is that the United States builds and finances planes through Wall Street and the private marketplace. Our domestic companies should not have to compete against the backing of European governments, against the deep pockets of governments that distort the global marketplace.

If, in fact, the EU drags its feet, how will these issues be resolved? Will they continue to argue that these launch aid subsidies are not the issue? Launch aid has provided Airbus with over $15 billion in subsidization, really unfairly propping up Airbus at the expense of the U.S. aerospace market and its workers. In the last 15 years, the U.S. aerospace industry has lost about 700,000 jobs.

Essentially, launch aid becomes a risk-free, low-cost government bank for the development of new lines of aircraft. The company only needs to repay the loans if the new product succeeds. Nowhere in our private sector does anybody, any company, get such a deal that they only have to pay the banker back if, in fact, the product succeeds. So this is a very important issue.

Obviously, launch aid puts our domestic manufacturers at an unfair competitive disadvantage. Airbus remains unfettered by the realities of the marketplace when launching new jetliners, while American companies must assume substantial market risk every time they unveil a new product. If Airbus bets on the wrong plane, no problem, no harm, no foul, the loans are forgiven. This means Airbus can proceed with the design and production of a new plane without ever turning a profit on an existing product line. It also means that Airbus can undercut the price and pursue more aggressive financing practices than the U.S. can. Obviously, you can see the end result is that Airbus can offer a cheaper plane in the marketplace by unfairly subsidizing the financing of their planes.

Well, nevertheless, Airbus has continued, even though it has grown into a mature company, to receive 33 percent of the funding for its product development from European governments since 1992, translating into billions in launch aid loans at below market rates. At the same time, it has avoided an additional $35 billion in current debt due to this subsidy. This launch aid distorts the global marketplace.

What we want to see in aerospace is competition that drives opportunities for the consumers. I believe that is why the United States has taken its aggressive position in saying that it will go to the WTO if necessary. I think it is time now to make sure that these negotiations between the United States and the European Union, which originally were announced in January, are completed as soon as possible. But maybe it is not surprising that they are lagging at this moment.

I say that because Airbus has moved ahead with a plan to submit $1.7 billion in an application for new launch aid for a new airplane, the A–350, which is designed to compete head-to-head with the Boeing 787. While negotiations to end launch aid are ongoing, there is simultaneously a new application to the European Union to support launch aid for a new plane. I believe that is probably why the Airbus CEO stated, about the new plane, the A–350: '' . . . is easily financeable [sic] by Airbus without launch aid, but as long as there is refundable launch aid available, we will apply for it.'' This means, as long as they can get refunds later on launch aid, they will apply for it.

So while the European Union is supposedly at the table negotiating with the United States about getting rid of launch aid subsidies, it is continuing to discuss deals about launch aid for new planes.

It is clear that this does not paint a pretty picture. The European Union cannot have it both ways. It cannot pretend to be serious about negotiations with the United States to end launch aid subsidies and all the while sending a wink to Airbus about launch aid for the A–350.

The EU must level with the American public and the global community on whether it is serious about ending unfair subsidized financing of their aircraft.

Specifically, I think Commissioner Mandelson and the EU should consider the following actions: first, EU negotiators should declare their opposition to the launch aid for the A–350 and summarily reject the pending application that Airbus has prepared. Second, the EU should also reject all launch aid for future aircraft models.

We need to address these unfair subsidized financing issues and put an end to launch aid so that aircraft financing is on a level playing field. Failure to follow these processes will lead to swift action by our administration and the U.S. Government. Today, the U.S. stands ready to reach a resolution on this issue, but we must have a willing partner. The White House has expressed a strong commitment to finding an agreement, and the President has the backing of this Senator, and I believe many in Congress, to seek a resolution to this issue. I am sure my colleagues will join me in considering all options at our disposal to help find a resolution to this issue.

Last week, I was invited to the Smithsonian for a commemorative celebration of Space Ship One, a successful marvel, sponsored by Paul Allen and many others. The celebration marked the successful launch of the first commercial, manned spaceflight-something from which individual consumers will benefit in the future. The Smithsonian National Air and Space Museum gave that award, and the flight signaled a new chapter in aviation history. There's something about the spirit of competition, about a group of people who came together to compete towards an exciting new chapter of aviation, and a level playing field of competition that delivered a great result.

Which is exactly what we have to get from the Europeans—a level playing field, to deliver a better result for the entire global community, for consumers, and for purchasers of aerospace and commercial aviation equipment by guaranteeing that we are going to have a level playing field.

I hope that these negotiations will continue in earnest and I am confident that Ambassador Zoellick and the new nominee, Mr. PORTMAN, will continue to be aggressive in resolving this issue. I believe we in the United States have fostered an environment for true competition for the private sector, to drive this industry to the next level. However, we need fair and balanced trade to make that successful.

I hope the Europeans will not stall these discussions, but that they will embrace the idea of fair competition as the end result.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H. CON. RES. 95

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate receives H. Con. Res. 95 from the House, the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Further, that all after the resolving clause be stricken and the text of S. Con. Res. 18 as agreed to be inserted in lieu thereof; further, that the resolution then be agreed to as amended and the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARGETED ENERGY INCENTIVES TO ACHIEVE A NATIONAL ENERGY STRATEGY

Mr. BYRD. Mr. President, on March 9, 2005, President Bush went to Columbus, OH for one of his many town hall meetings. Besides attempting to sell his Social Security plan, he also spoke about the need for a national energy policy. Not surprisingly, he raised the specter of high gas prices, increasing natural gas rates, and electricity blackouts as a justification to pass his energy plan. However, this issue needs more than just rhetoric. It needs real solutions.

The American people need look no further than the President's budget request to question that commitment to a serious energy policy. The President has cut funding for a number of important energy programs in his budget. For example, he has said that he supports clean coal technologies. He started professing his support on the campaign trail in October 2000, and he promised to commit $2 billion over 10 years for the Clean Coal Technology demonstration program. This is the very program that I started back in 1985. Yet, each of his five budgets has failed to meet that goal. This year, he only requested $50 million, instead of the promised $200 million. In effect, he has promised those in the coal fields one dollar but has only anted up two bits. Furthermore, he touts the need for the FutureGen project but cannot say where the funding for this facility is going to come from down the road. His only option right now is to raid other clean coal programs, and I will not stand by and let him rob Peter to pay Paul.

The White House has proposed and the Majority has adopted just $4.56 billion in energy tax incentives over five years in this Fiscal Year 2006 budget. How much did the President include for clean coal tax incentives in this year's budget request, or in previous years' budget requests? Nothing! We cannot demonstrate and deploy the next generation of clean coal technologies based on what this administration is actually willing to put on the table. The administration's co-called support for the clean coal technology programs is indicative of its support for so many important energy programs. This administration's much narrower package of energy tax incentives is inadequate to achieve our national energy policy goals.

I have long believed that the U.S. needs a comprehensive and balanced national energy policy. The looming concerns of electricity blackouts, energy prices, and increased dependence on foreign energy sources represent ominous clouds on the horizon. Sadly, our energy problems, like so many other challenges, are being addressed with ever shrinking funds and band-aid solutions. The pattern has been repeated over and over again. The Bush administration generates new initiatives, fails to fully fund them, and then simultaneously cuts other important programs. At the same time, we have witnessed attempts to put a moratorium on federal gas taxes, to tap the Strategic Petroleum Reserve, and to make secretive deals with Saudi Arabia to produce more oil. We have endeavored to treat the symptoms, rather than the core problem, for far too long. This President may talk a good game, but how are we going to fix our energy ills with this President's prescription?

The United States needs affordable, reliable, and clean energy resources and technologies to support a growing economy and a healthy environment. We need a comprehensive, balanced, and diversified national energy policy that will promote a strong energy efficiency program and bolster our Nation's coal, natural gas, oil, renewable, nuclear, and other clean domestic energy technologies. A strong energy policy must help to maintain and upgrade these our critical energy infrastructure and support, retain, and create energy-related manufacturing and other service jobs that are an underpinning of our economy. A bipartisan energy strategy should encourage increased use of the most advanced energy supply and energy efficiency technologies and must support increased investments in an array of energy research and development programs.

Our Nation needs to begin defining alternative pathways and new approaches that go beyond the extremist debates and simplistic solutions that define our very demanding energy security and environmental challenges. It is time to move along that path. I urge my colleagues in the Senate to support an appropriate, equitable, and diversified mixture of at least $15.5 billion in targeted energy tax incentives over the next ten years, and I urge the Finance Committee to find offsets so that this can be done in a fiscally sound way.

In the 108th Congress, the Senate supported a similar level for energy incentives. The Senate's Fiscal Year 2004 Budget Resolution, the last budget that Congress passed, provided for $15.5 billion in energy tax incentives over ten years. In 2003, the Senate Finance Committee adopted and the Senate passed a balanced and bipartisan package of energy tax incentives in the amount of $19.8 billion over ten years as a part of the Senate Energy Policy Act of2003, part of which was offset. I supported that energy tax package as it provided an array of targeted energy incentives, including approximately $2 billion to deploy advanced clean coal technologies.

Such an energy tax incentives package would help strengthen the economy, enhance our Nation's energy resources, promote an array of advanced energy technologies, increase jobs, and provide for a healthy environment. Is there a Member in this Chamber who is opposed to that? If there are going to be tax cuts in this budget, then we must increase funding for a range of energy tax incentives. Supporting at least $15.5 billion in energy tax incentives will send a strong message that these incentives are necessary to develop a national energy policy, and I urge my colleagues to stand with me in this request. Unless we can increase the pie for all of these energy technology approaches, there will not be enough to achieve our energy goals in any serious way.

HONORING OUR ARMED FORCES

STAFF SERGEANT MELVIN L. BLAZER

Mr. INHOFE. Mr. President, I wish to honor a brave Oklahoma soldier who gave the last full measure to protect our freedom. Staff Sergeant Melvin Blazer of the United States Marine Corps embodied the spirit of service and the values that make this country what it is.

Sergeant Blazer was a great Marine. He joined soon after graduating from Moore High School in 1984. As he rose through the ranks, he developed a reputation of dependability. He was serving as a platoon leader with the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force when his unit was deployed to Iraq.

Sergeant Blazer was no stranger to the hazards of duty. He survived an improvised explosive device attack that struck his convoy last November and was awarded a Purple Heart.

Sergeant Blazer was also a family man. He married his wife, Dana, in 1989 and they had two children, Alyssa and Erik. As his wife recalls, ''To know my husband was to love my husband. Everybody loved him and admired him and respected him and held him in such high regard. He was a hero In his everyday life.''

Sergeant Blazer was also a Christian. He told relatives he was excited to see Iraq because the Bible talks about it and was proud to help and serve an oppressed people.

On December 12, 2004, Sergeant Blazer was killed by enemy small arms fire in the city of Fallujah. He was 38 years old. He loved God, devoted himself to his family and gave the highest sacrifice to his country. He leaves behind many who know what a true hero he is. As a son of Oklahoma and a fine example of what this country stands for, Staff Sergeant Blazer deserves our honor and remembrance.

LANCE CORPORAL JORDAN D. WINKLER

Mr. President, I wish to honor one of Oklahoma's fallen sons, Marine LCpl Jordan Winkler. From an early age he felt called to defend our country and the freedom it stands for. For his life of service and his final sacrifice, we are eternally indebted to him.

Corporal Winkler admired the military even before he was old enough to join. His parents still have a letter from the Marine Corps that he received when he was fifteen. While in Union High School in Tulsa, he was active in sports and respected by his peers.

Through family friends and recruiters, he gained an accurate picture of what would be required of him if he joined. During his senior year he was able to pursue his dream and joined the Marines through a delayed entry program. Those who knew him say he wore the uniform with pride.

Corporal Winkler is remembered for his determination, honesty and integrity. As his teacher Paul Todd said, ''You knew where he stood. He lived by his principles and he was a good role model for everyone that knew him.''

After training, he was assigned to the Combat Service Support Battalion 1, Combat Service Support Group 11, 1st Force Service Support Group, 1st Marine Expeditionary Force, normally stationed at Camp Pendleton, California. This unit was deployed to Iraq to contribute to the ongoing US effort to rid the country of tyranny and the influence of terrorism. On November 26, 2004, in Camp Fallujah, Corporal Winkler died in a non-combat incident. He was buried at Tulsa's Memorial Park Cemetery with military honors.

Corporal Winkler made a deep impact on those who knew him, but those who most deeply loved him look forward with hope. As his family said in a statement, ''Jordan was a dedicated Marine who was proud to be in Iraq serving his country and doing his job as a Marine. We will miss him more than words can say. However, we know we will see him again. Jordan Winkler was a Christian and knew that no matter what happened in his life, God was always in control.''

Lance Corporal Jordan Winkler was worthy of deep respect and embodies all the qualities that make our Armed Forces and our country great. He was a soldier and a man of integrity, and he will be deeply missed.

SERGEANT CARL W. LEE

Mr. President, today I stand in proud memory of an American hero. Army Sgt Carl W. Lee was a native of Oklahoma City, OK. He graduated from Crooked Oak High School in 2000 and enlisted in the Army. Although Sergeant Lee initially expected to stay only for the 3-year commitment, he soon chose to make a career of military service. He was assigned to the United States Army's 1st Battalion, 503rd Infantry Regiment, 2nd Brigade Combat Team, 2nd Infantry Division.

Sergeant Lee is remembered as an example of service and motivation. As Rusty McMurtrey, Lee's 21-year-old brother, emotionally recalled, ''He was the reason I graduated school and got as far as I did. Since I can remember, Carl was the only one who'd been there for me.'' Rusty credited his older brother with saving him from a life of gangs and violence. The two planned on starting an automotive business together.

When he had any free time, Sergeant Lee would volunteer with a local Special Olympics. It was his heart that his friends and family remember most.

Sergeant Lee's unit, usually stationed at Camp Howze, South Korea, was deployed to Iraq. He served there as part of the effort to free the Iraqi people from the chains of tyranny and terrorism. On November 28, 2004, his unit was conducting a foot patrol in Ar Ramadi when it came under enemy small arms fire. Sergeant Lee was hit twice and died from those wounds.

Mr. President, it is difficult to express the pain of those he left behind; Sgt Carl Lee meant so much to so many and he will forever be remembered as a hero. By putting himself in harm's way he showed bravery and self-sacrifice that few of us will ever know. He gave the ultimate measure, and we are in his eternal debt. I honor Oklahoma's son and America's warrior, Sgt Carl W. Lee.

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Lance Corporal Jordan Winkler was worthy of deep respect and embodies all the qualities that make our Armed Forces and our country great. He was a soldier and a man of integrity, and he will be deeply missed.

CORPORAL STEPHEN M. MCGOWAN

Mr. CARPER. Mr. President, I would like to set aside a few moments today to reflect on the life of Stephen McGowan. Steve epitomized the best of our country's brave men and women who fought to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Steve reminds each of us how good we can be.

A 1996 graduate of St. Mark's High School, Steve was the son of Ms. Bobbie McGowan, a personal friend of my family. Steve then attended the University of Delaware and Wilmington College, studying criminal justice. He joined the Army 3 years ago, wanting to serve in the Army partly because he could not find a job with enough challenge and adrenaline in other careers he had considered. According to his family, Steve enjoyed the challenge, especially physical challenge and the

mental challenge that went with a military career—the challenge to try harder, get stronger, and push the limits. That was true in all aspects of his life. He played soccer until he graduated from high school, but when that grew too tame for him, he switched to rugby.

Steve enlisted on September 17, 2002, and was selected for combat medic training, which he pursued with distinction at the U.S. Army Medical School at Sam Houston, Texas.

Before being deployed to Iraq, Stephen earned a parachutist badge at the U.S. Army Airborne School and served for approximately 15 months with the 2nd Infantry Division near the DMZ in Korea. Steve volunteered to join his unit's 2nd Brigade Combat Team to spare medics with spouses and children and arrived with the unit in Kuwait in early August 2004. Within a few weeks, he deployed to Ramadi, about 45 miles west of Baghdad, where his unit supported the 1st Marine Expeditionary Force and was responsible for VIP escort, area security and other ''highly operated missions.'' He died when an improvised explosive device detonated near his military vehicle in Ramadi, Iraq. Before returning home, Steve was awarded the Global War on Terrorism Service Medal, the National Defense Service Medal, the Korean Defense Service Medal, Good Conduct Medal, Purple Heart, Army Commendation Medal, Army Achievement Medal, Armed Service Ribbon, and Global War on Terror Expedition Medal. A Bronze Star will be awarded posthumously.

Steve was a highly regarded young soldier. He joined the military in support of Operation Iraqi Freedom because he felt that as a single person with no children, he could go and take someone else's spot. His family remembers him as the embodiment of pride, honor and dignity. He was admired by every man and woman he worked with and every commanding officer with whom he served. According to his sister, Michaela, ''Steve was raised with the values that you find in the military and he lived them. Steve touched so many lives and I'm so proud of the man he became.''

Despite the close calls and the fact U.S. forces in Iraq are fighting insurgents who wear civilian clothes and hide among the general population, Steve and his squad carried toys and athletic equipment with them when they went on patrol. Last year, he asked family and friends to send him small items that he could hand out as gifts for Iraqi children rather than Christmas presents.

In one e-mail, he said that Iraqi girls had become entranced by the sight of some Beanie Baby dolls the soldiers handed out. The story so touched his mother, Bobbie McGowan, that she organized a Beanie Baby drive at the Charter School of Wilmington, where she is dean of humanities. Students reacted so positively to her request for the dolls that she was swamped with them. Students donated so many dolls that she had to send them to her son in small lots because he did not have room to store them all. His mother, Bobbie, takes comfort in the fact that her son had not only saved lives in Iraq as a medic but that he had also touched many more lives by passing out toys to children. This was a true testament to the kind of soldier—the kind of man—Steve was.

He was a soccer, biking, and outdoor enthusiast and will be remembered especially for his rugby adventures with the University of Delaware, the Wilmington's Men League and the 2nd Infantry Division Rugby Club. In 2001, Steve took a trip to New Zealand while accompanying his rugby mate who was exploring professional rugby opportunities. Steve's favorite team was the All Blacks. Traveling in New Zealand gave him the opportunity to do what he loved—experience new cultures and have a new adventure.

This tragedy strikes particularly close to home. Stephen's mother, Bobbie, is a highly regarded member of the faculty at the Charter School of Wilmington, where our sons attend high school. Steve's death is a terrible blow to his family and a source of deep sorrow for those of us privileged to know his family. I rise today to commemorate Steve, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss.

CHANGES TO RULES OF PROCEDURE—SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, pursuant to rule XXVI, paragraph 2 of the Standing Rules of the Senate, I am submitting for publication in the CONGRESSIONAL RECORD changes to the Rules of Procedure for the Select Committee on Intelligence. I ask unanimous consent that the rules of the committee be printed, in the RECORD to reflect the amendments adopted by the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INTELLIGENCE, UNITED STATES SENATE

Adopted June 23, 1976, Amended June 26, 1987, Amended October 24, 1990, Amended February 25, 1993, Amended February 22, 1995, Amended January 26, 2005, Amended March 15, 2005

RULE 1. CONVENING OF MEETINGS

1.1 The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be every other Wednesday of each month, unless otherwise directed by the Chairman.

1.2 The Chairman shall have authority, upon notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3 A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4 In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5 If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1 Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2 It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3 The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting, the ranking majority member, or if no majority member is present the ranking minority member present, shall preside.

2.4 Except as otherwise provided in these Rules, decisions of the Committee shall be by majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of no less than one-third of the Committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5 A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization: (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6 Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee. Each subcommittee created shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman, respectively.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1 No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2 In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3 A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

4.4 Routine, non-legislative actions required of the Committee may be taken in accordance with procedures that have been approved by the Committee pursuant to these Committee Rules.

RULE 5. NOMINATIONS

5.1 Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2 Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3 Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4 No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5 The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the Committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or designated Committee staff members.

RULE 7. SUBPOENAS

Subpoenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman, Vice Chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2nd Session and a copy of these Rules.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 Notice.—Witnesses required to appear before the Committee shall be given reasonable notice, and all witnesses shall be furnished a copy of these Rules.

8.2 Oath or Affirmation.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 Interrogation.—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, the Vice Chairman, or the presiding member.

8.4 Counsel for the Witness.—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his or her appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 Statements by Witnesses.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his or her testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his or her appearance before the Committee.

8.6 Objections and Rulings.—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the Chair.

8.7 Inspection and Correction.—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his or her expense.

8.8 Requests to Testify.—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a Committee member or a member of the Committee staff, may tend to affect adversely his or her reputation, may request to appear personally before the Committee to testify on his or her own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 Contempt Procedures.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the Committee, to forward such recommendation to the Senate.

8.10 Release of Name of Witness.—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his or her appearance before the Committee. Upon authorization by the Chairman to release the name of a witness under this paragraph, the Vice Chairman shall be notified of such authorization as soon as practicable thereafter. No name of any witness shall be released if such release would disclose classified information, unless authorized under Section 8 of S. Res. 400 of the 94th Congress or Rule 9.6.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2 Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof. All documents or materials removed from the Committee offices for such authorized purposes must be returned to the Committee's secure storage area for overnight storage.

9.3 Each member of the Committee shall at all times have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4 Whenever the Select Committee on Intelligence makes classified material available to any other Committee of the Senate or to any Member of the Senate not a member of the Committee, such material shall be accompanied by a verbal or written notice to the recipients advising of their responsibility to protect such material pursuant to Section 8 of S. Res. 400 of the 94th Congress. The Clerk of the Committee shall ensure that such notice is provided and shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and, under the Committee's direction, the Staff Director and Minority Staff Director.

9.6 No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session including the name of any witness who appeared or was called to

appear before the Committee in executive session, or the contents of any papers or materials or other information received by the Committee except as authorized herein, or otherwise as authorized by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate. For purposes of this paragraph, members and staff of the Committee may disclose classified information in the possession of the Committee only to persons with appropriate security clearances who have a need-to-know such information for an official governmental purpose related to the work of the Committee. Information discussed in executive sessions of the Committee and information contained in papers and materials which are not classified but which are controlled by the Committee may be disclosed only to persons outside the Committee who have a need-to-know such information for an official governmental purpose related to the work of the Committee and only if such disclosure has been authorized by the Chairman and Vice Chairman of the Committee, or by the Staff Director and Minority Staff Director, acting on their behalf.

9.7 Failure to abide by Rule 9.6 shall constitute grounds for referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400. Prior to a referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400, the Chairman and Vice Chairman shall notify the Majority Leader and Minority Leader.

9.8 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff.

9.9 Attendance of persons outside the Committee at closed meetings of the Committee shall be kept at a minimum and shall be limited to persons with appropriate security clearance and a need-to-know the information under consideration for the execution of their official duties. Notes taken at such meetings by any person in attendance shall be returned to the secure storage area in the Committee's offices at the conclusion of such meetings, and may be made available to the department, agency, office, Committee or entity concerned only in accordance with the security procedures of the Committee.

RULE 10. STAFF

10.1 For purposes of these rules, Committee staff includes employees of the Committee, consultants to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the Committee. To the maximum extent practicable, the Committee shall rely on its full-time employees to perform all staff functions. No individual may be retained as staff of the Committee or to perform services for the Committee unless that individual holds appropriate security clearances.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing. No Committee staff shall be given access to any classified information or regular access to the Committee offices, until such Committee staff has received an appropriate security clearance as described in Section 6 of S. Res. 400 of the 94th Congress.

10.3 The Committee staff works for the Committee as a whole, under the supervision of the Chairman and Vice Chairman of the Committee. The duties of Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and materials, shall be administered under the direct supervision and control of the Staff Director. All Committee staff shall work exclusively on intelligence oversight issues for the Committee. The Minority Staff Director and the Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committee.

10.4 The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5 The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during their tenure as a member of the Committee staff or at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment to abide by the conditions of the non-disclosure agreement promulgated by the Senate Select Committee on Intelligence, pursuant to Section 6 of S. Res 400 of the 94th Congress, 2d Session, and to abide by the Committee's code of conduct.

10.7 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee, or in the event of the Committee's termination the Senate, of any request for his or her testimony, either during his or her tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his or her possession by virtue of his or her position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8 The Committee shall immediately consider action to be taken in the case of any member of the Committee staff who fails to conform to any of these Rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff.

10.9 Within the Committee staff shall be an element with the capability to perform audits of programs and activities undertaken by departments and agencies with intelligence functions. Such element shall be comprised of persons qualified by training and/or experience to carry out such functions in accordance with accepted auditing standards.

10.10 The workplace of the Committee shall be free from illegal use, possession, sale or distribution of controlled substances by its employees. Any violation of such policy by any member of the Committee staff shall be grounds for termination of employment. Further, any illegal use of controlled substances by a member of the Committee staff, within the workplace or otherwise, shall result in reconsideration of the security clearance of any such staff member and may constitute grounds for termination of employment with the Committee.

10.11 In accordance with Title III of the Civil Rights Act of 1991 (P.L. 102–166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.

RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2 The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

11.3 The Staff Director shall ensure that covert action programs of the U.S. Government receive appropriate consideration by the Committee no less frequently than once a quarter.

RULE 12. LEGISLATIVE CALENDAR

12.1 The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2 Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1 No member of the Committee or Committee staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2 When the Chairman and the Vice Chairman approve the foreign travel of a member of the Committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3 No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a

notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

APPENDIX A

S. RES. 400

May 19, 1976—Considered, amended, and agreed to

RESOLUTION

To establish a Standing Committee of the Senate on Intelligence, and for other purposes.

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the Executive and Legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the ''select committee''). The select committee shall be composed of not to exceed fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) not to exceed seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.

(3)(A) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.

(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.

(b) At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other Committee referred to in paragraph 4(e)(1) of rule XXV of the Standing Rules of the Senate.

(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and the Vice Chairman of the select Committee, respectively.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not the session.

(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic, but not less than quarterly, reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters, requiring the attention of the Senate or such other committee or committees. In making such report, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to

make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoenas.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform service for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the [Select Committee on Ethics]) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the Executive branch, and which the Executive branch requests be kept secret, such committee shall—

(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the Majority Leader and the Minority Leader the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reason therefore, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate, the Senate shall go into closed session and the mater shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed.

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate or move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the [Select Committee on Ethics] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the [Select Committee on Ethics] shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the [Select Committee on Ethics] determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Government Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the Executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the Executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding or sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term ''intelligence activities'' includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term ''department or agency'' includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

(d) Of the funds made available to the select Committee for personnel—

(1) not more than 60 percent shall be under the control of the Chairman; and

(2) not more than 40 percent shall be under the control of the Vice Chairman.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.

APPENDIX B

94th Congress, 1st Session

S. RES. 9

RESOLUTION

Amending the rules of the Senate relating to open committee meetings

Resolved, That paragraph 7(b) of rule XXV of the Standing rules of the Senate is amended to read as follows:

''(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters be discussed or the testimony to be taken at such portion or portions—

''(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

''(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

''(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

''(4) will disclose the identity of any informer or law enforcement agency or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

''(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

''(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

''(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such persons.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.''

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and section 102(d) and (e) of the Congressional Budget Act of 1974 are repealed.

APPENDIX C

108th Congress 2d Session

S. RES. 445

October 9, 2004—Considered, amended, and agreed to

RESOLUTION

To eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Resolved,

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

(1) Department of Homeland Security, except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center or the Secret Service; and

(B)(i) the United States Citizenship and Immigration Service; or

(ii) the immigration functions of the United States Customs and Border Protection or the United States Immigration and Custom Enforcement or the Directorate of Border and Transportation Security; and

(C) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate: *Provided,* That the jurisdiction provided under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are—

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as ''rescissions'' and ''deferrals'';

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to ensure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) OMB NOMINEES.—The committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as ''S. Res. 400'') is amended by—

(1) inserting ''(A)'' after ''(3)''; and

(2) inserting at the end the following:

''(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.''.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting ''not to exceed'' before ''fifteen members'';

(2) in paragraph (1)(E), by inserting ''not to exceed'' before ''seven''; and

(3) in paragraph (2), by striking the second sentence and inserting ''Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin''.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN.—Section 2(b) of S. Res 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: ''At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.''.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

''(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.''.

(f) REPORTS.—Section 4(a) of S. Res 400 is amended by inserting '', but not less than quarterly,'' after ''periodic''.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the

respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

''(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

''(d) Of the funds made available to the select Committee for personnel—

''(1) not more than 60 percent shall be under the control of the Chairman; and

''(2) not less than 40 percent shall be under the control of the Vice Chairman.''.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees'' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.''.

(i) JURISDICTION.—Section 3(b) of S. Res. 400 is amended to read as follows:

''(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

''(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

''(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not in session.

''(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.''.

(j) PUBLIC DISCLOSURE.—Section 8 of S. Res 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''shall notify the President of such vote'' and inserting ''shall—

''(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

''(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.'';

(B) in paragraph (2), by striking ''transmitted to the President'' and inserting ''transmitted to the Majority Leader and the Minority Leader and the President''; and

(C) by amending paragraph (3) to read as follows:

''(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.''.

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Committee on Appropriations shall reorganize into 13 subcommittees as soon as possible after the convening of the 109th Congress.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters, as determined by the Senate Committee on Appropriations.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

ANTI-SECESSION LAW OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. ROCKEFELLER. Mr. President, on March 14 the National Congress of the People's Republic of China passed a bill termed the ''Anti-Secession'' law that preemptively positions China to take military action should it judge Taiwan to be moving toward formal independence. While the threat of force from Beijing is not new, legislation that refers to ''non-peaceful means,'' even described as a ''last resort'' can only be seen as counterproductive. At a minimum, it is not conducive to building confidence between Taiwan and China nor facilitating dialogue, which are key to future stability in the straits and to peace and prosperity for both sides. This is not an issue that can be successfully resolved through military means. All would lose.

The timing of this law is equally unfortunate. Since the beginning of this year, Chinese and Taiwanese officials have taken concrete, pragmatic steps to build better relations—such as direct flights, shipping links, and increased trade. There have also been gestures of personal respect and there has been a lowering of the rhetorical temperature, on both sides. These are heartening developments. I encourage both parties to seek to expand upon them. I am convinced that this is the right road for China and Taiwan, to focus on mutually beneficial programs and to continue to create opportunities for more personal contacts.

In contrast, the Anti-Secession law is awkward and unhelpful. While I recognize that it also does stress the chance for peaceful settlement of the Taiwan issue, its thrust, coupled with an ongoing Chinese military build-up, will be viewed by Taiwan as inimical. I urge the Chinese government to move beyond this legislation, and this moment, and to demonstrate its good faith intent to work toward renewed discussions and better relations. If Beijing does so, certainly I hope that Taipei will respond in kind.

IN HONOR OF WOMEN'S HISTORY MONTH

Mrs. FEINSTEIN. Mr. President, I rise today in honor of Women's History Month to recognize the advancements that women have made this year and to reflect on the challenges and opportunities for the years ahead.

We have set aside this month to formally pay tribute to the contributions of women in the United States and around the world.

I would like to start by paying tribute to the women in Iraq and Afghanistan who are working to build their countries and to make a better life for themselves and their families. These women have been freed from oppressive regimes and as their nations rebuild now must secure their rights for all time.

Women throughout the Arab World are making their way into public life.

In some countries, they are being elected to office, named to cabinet-level posts and appointed to leading positions in powerful civil society organizations—these are the thought-leaders and the pioneers. But there is another, parallel movement that has also begun: the quiet leadership of ordinary women who are doing extraordinary things.

On January 30, scores of Iraqi women poured into polling stations in cities and rural communities. Braving bullets, bombs, and substantial personal threat, they joined their fellow countrymen to vote in the nation's first free election, an act that warrants our deepest respect.

When I reflect on their courage, I realize that in the United States we have no point of reference to understand what they must have felt on that Monday in January. Though the women in our Nation have fought and continue to fight for justice and equal opportunity, the trip from our homes to the voting booth has never involved a life or death decision. The fact that 8 million people, 60 percent of whom were women according to some estimates, chose to risk their lives to vote is, quite frankly, astounding to me.

These women have grasped at democracy and they now clench it with tightened fists. I think we can learn something from this. I would like to call attention to their sacrifices and to highlight the lessons that their courage can teach women in the United States and around the world.

It is easy to take for granted today, but women in America also had to fight for the right to vote. After a decades' long struggle, women finally secured the right to vote in 1920 and since that time women have made incredible advancements.

Women have risen to the top of Fortune 500 companies and fill the domes of capitols and the halls of universities—today approximately 56 percent of college students are female, compared to 44 percent in 1973. The wage gap, however, is still alarming. Women who work full-time earned about 79.5 cents on the dollar compared to their male counterparts in 2003.

Women are a true political force and continue to contribute every day all across this country. In the years that I have been in politics, women have changed the face of American politics.

Issues that were once relegated to the back burner—education, health care, children, and seniors—are now at the top of America's political agenda.

Since I was first elected to the Senate in 1992, we have made remarkable progress for women by:

Increasing breast cancer research funding by 800 percent;

Tripling funding for domestic abuse shelters;

Raising lending to women through the Small Business Administration;

Passing the Family and Medical Leave Act and the Violence against Women Act;

Covering mammogram screening for Medicare and Medicaid beneficiaries;

Extending maternity hospitalization to 48 hours; and

Requiring health care companies to fund breast reconstruction after mastectomies.

We have come a long way, but we still have a long way to go.

That is why I am cosponsoring the Equal Rights Amendment to the Constitution. This amendment is essential to guarantee that the rights and freedoms granted by our Founding Fathers apply equally to men and women.

In addition, women's reproductive rights are under attack in Congress like never before, and I remain deeply committed to protecting a woman's right to choose guaranteed by Roe v. Wade. I also believe that it is extremely important that we reduce the number of unintended pregnancies and abortions.

I have spoken on this issue before and it is something that I feel very strongly about. Recently, we have seen considerable setbacks in the battle for reproductive rights and I fear that the advances we have fought so hard for are now threatened.

I am part of a generation of women who remember a time when a woman did not have the right to decide when and if she would give birth. I will not stand by and let us return to that time.

The decline of our rights under this administration has been slow but steady. Subtle encroachments occur either through the high-profile path of judicial appointments or through the silent passageways of regulations, obscure amendments tacked on to large bills, or grant limitations.

The current administration has systematically chipped away at the rights of women, and they have done so shielded from public scrutiny by employing these quiet forms of repression and intimidation. I am here to say: we have noticed, we are paying attention and we will fight.

These are issues that affect every woman in the United States. Let us not become complacent. Let us take inspiration from the women in Iraq who risked their lives to exercise their rights as we continue the struggle to defend our own. The time for basking in the glory of past achievements has passed; this is a battle that must be fought by the everyday women warriors. It is time to roll up our sleeves and get back to work.

Because of the women who have come before us, we are fortunate to participate in our democratic system of justice. We cannot take that opportunity and responsibility for granted.

THE PRENATALLY DIAGNOSED CONDITIONS AWARENESS ACT

Mr. BROWNBACK. Mr. President, I recently introduced S. 609, the Prenatally-diagnosed Conditions Awareness Act, with my colleague, the senior Senator from Massachusetts. This bill will accomplish the following:

One, ensure that pregnant women facing a positive prenatal test result will be more likely to receive up-to-date, scientific information about the life expectancy, clinical course, intellectual and functional development, and prenatal and postnatal treatment options for their child;

Two, provide pregnant women referrals to support services such as hotlines, Web sites, information clearinghouses, registries of families willing to adopt babies with disabilities, and parent-to-parent programs where people with children with disabilities meet with the newly diagnosed family to provide support and real-world information;

Three, improve epidemiologic understanding of prenatally-diagnosed conditions, within a strict set of confidentiality protections;

Four, support health care providers who perform prenatal tests and deliver results; and

Five, authorize a study of the effectiveness of existing health care and family support services for children with disabilities and their families.

The need for this legislation and the public dialogue I hope it encourages could not be more urgent. Medical science has provided the opportunity to obtain a massive amount of information about our own bodies and health and that of our children. But I am concerned that our ethical dialogue has not kept pace with new ethical challenges. We have been able to screen for certain conditions in the womb for quite some time now, but I am concerned that we don't have a great track record for handling that information very well. For some conditions that can be detected in the womb, such as Down Syndrome, we are aborting 80 percent or more of the babies who test positive. The effect of this sort of ''weeding out'' represents a sort of new eugenics, a form of systematic, disability-based discrimination.

Worse, trends suggest that this atrocity doesn't just end in the womb. The Netherlands has recently enacted policies that make it acceptable for doctors to end the lives of terminally ill children up to age 12, resulting in about 100 cases of pediatrician-induced homicides of children with severe handicaps each year. Belgium is considering similar policies. Unfortunately, these policies are starting to trickle into our own country. In Texas, a court recently upheld a hospital's decision to remove life support from a 6-month-old handicapped baby, against his mother's wishes.

It sounds too crazy to be true, but it is not just fringe thinking—leading so-called ethics experts have supported the killing of children with disabilities, such as Princeton Professor Peter Singer, who wrote in 1993 in his book Practical Ethics, ''killing a defective infant is not morally equivalent to killing a person . . . sometimes it is not wrong at all.'' These ideas echo back to Nazi Germany, and, unfortunately, there is a tragic history, even in our own country, of abuse of institutionalized people with disabilities, only

a few decades ago. Once one goes down the path of valuing some lives more than others, of saying that people with disabilities don't have the same dignity and right to live as others, there are very few means that don't justify the so-called ''worthy end'' of a disability-free society.

When I see beautiful children with Down Syndrome, spina bifida and other differences, I can't imagine why our society would ever condone this sort of unnatural selection. We don't want a world where parents feel driven to justify their children's existence. In addition to the many abilities that people with disabilities have which are equivalent to others, these individuals so often have a perspective the rest of us don't have. We learn compassion, heroism, humility, courage and self-sacrifice from these special individuals, and their gift to us is to inspire us, by their example, to achieve these virtues ourselves.

Published surveys suggest that our legislation is desperately needed. A survey of 499 primary care physicians delivering a prenatal diagnosis of Down Syndrome to expectant parents found that 10 percent actively ''urged'' parents to terminate the pregnancies, and 13 percent indicated that they ''emphasized the negative aspects of Down Syndrome so that parents would favor a termination.''

This bill offers support to ensure that prenatal testing need not be a negative experience for those whose children are diagnosed with a condition like Down Syndrome. For instance, some pregnant women might choose to carry their child to term if they knew there were waiting lists of families willing to adopt children with Down Syndrome. Some parents might be reassured about keeping their children if they were able to spend some time talking with a family that has a special needs child about their real-life experience. Some parents would be helped by hearing a positive message about the potential and joy of living with children with disabilities, while also being presented with a realistic assessment of the challenges.

There are many people to thank for helping prepare this bill for introduction, and I hope they will continue to help us as we move this bill towards the President's desk. In particular, I am honored to have my friend the senior Senator from Massachusetts as a lead Democrat on this bill. Senator KENNEDY is an incredible champion for people with disabilities. As we have worked together, he has educated me about some of the challenges faced by families with children with disabilities. In particular, I want to thank Connie Garner on Senator KENNEDY's staff, whose tireless advocacy for the dignity and rights of people with disabilities has been an inspiration to me and my staff.

Many thanks to our partners in the House of Representatives, who I hope will speedily pass the companion version of this bill, especially lead sponsor Chairman SENSENBRENNER. Key House support has also come from my friend Congressman PETE SESSIONS and Congressman JOHN HOSTETTLER.

I urge my colleagues to co-sponsor this legislation and I look forward to working with my colleague from Wyoming, the Chairman of the Committee on Health, Education, Labor and Pensions, and the majority leader, to speed Senate passage of this important legislation.

FRATERNAL BENEFIT SOCIETIES

Mr. SANTORUM. Mr. President, on January 27, the staff of the Joint Committee on Taxation released a report requested by Senate Finance Chairman GRASSLEY and the ranking member, Senator MAX BAUCUS, entitled ''Options To Improve Tax Compliance and Reform Tax Expenditures.'' While I fully expect that many of the recommendations will be the subject of extended debate in the Senate over the coming year, I want to highlight one recommendation that should be rejected immediately: the joint committee staff's proposal to revoke the tax-exempt status of fraternal benefit societies.

Beginning with the Tariff Act of 1894, every Federal tax law has contained a specific exemption for fraternal benefit societies, and with good reason. These organizations, some of which have existed since the Civil War, are a major force for good in America today. Last year, for example, these organizations incurred almost $360 million in direct fraternal and charitable expenditures, while their individual members devoted more than 80 million volunteer hours—valued at $1.4 billion—in community and social services. Fraternal benefit societies support their communities in every possible way, including helping families with critically ill children, supporting homeless shelters and homes for the aged, raising funds and supporting local food banks, repairing playgrounds and other community facilities, and helping underprivileged youth stay away from drugs. Fraternal benefit societies are among our Nation's most important first responders; they acted quickly to provide almost $17 million in financial relief to families affected by 9/11, and have raised upwards of $8 million in tsunami relief and counting.

What makes this extraordinary effort possible is the requirement under the Internal Revenue Code that fraternal societies also make available to their members insurance against death, disease, and disability, a tradition of mutual aid that goes back to the earliest days of fraternalism. I am troubled, Mr. President, by the fact that the Joint Committee staff has dredged up an old idea that has been rejected once before. In 1984, the Treasury Department made a similar recommendation that resulted in Congress mandating an extensive study of fraternal benefit societies that was issued in 1993. In that study, Treasury concluded that fraternal societies do not use their tax exemption to compete unfairly against commercial insurers, but instead, use the revenues from insurance to support their fraternal and charitable activities. Treasury left the decision up to Congress, but noted that if the exemption was taken away, these fraternal and charitable activities would be extinguished.

If anything, the rationale for encouraging fraternal benefit societies is greater today than it has been at any other time in our history. Fraternal societies have shown us that the private sector can and will step in to make a difference. As our need for fraternal societies has grown, so too has their devotion to our communities. Fraternal and charitable expenditures were approximately $242 million in 1985, and the number of volunteer hours on behalf of society members was just over 26 million. Last year fraternal and charitable expenditures were almost $365 million and the number of volunteer hours had grown to 83 million. At the same time, the share of the insurance market represented by fraternals during this time period has remained steady at around 1.5 percent. In other words, the good that these organizations do has gone way up; they are no more a threat to commercial businesses today than they were 20 years ago. Moreover, I can tell you from personal experience that the 10 million Americans who join fraternal societies are more devoted today to the cause that brought them together—whether religious, patriotic, or a shared heritage—than ever before. Pennsylvania is fortunate to be home to many of these organizations and dedicated citizens.

The Joint Committee staff has concluded that revoking the tax-exemption of fraternal benefit societies would raise $500 million over 10 years. This pales by comparison to the $4 billion that fraternal societies are likely to put back into their communities over the same time frame in direct fraternal and charitable expenditures, and the annual $1.4 billion that their members devote in volunteer time throughout the country.

Recognizing the importance of fostering this type of private sector support for our communities, it is interesting to note that the platform of the Republican National Committee in 2004, 2000, and 1996 contained the following statement: ''Because of the vital role of religious and fraternal benevolent societies in fostering charity and patriotism, they should not be subject to taxation.''

Mr. President, it often has been said that the power to tax is the power to destroy. This is the time to encourage, not destroy, organizations that devote themselves to social good, organizations from which this Nation has benefited immeasurably for more than 150 years. As Congress concluded in 1985, let us again make sure that this joint committee recommendation is taken off the table.

TAXATION OF FEMA DISASTER MITIGATION GRANTS

Mr. BOND. Mr. President, last week I introduced a bill, S. 586, as an alternative to my previous bill, S. 290, regarding the taxation of FEMA disaster mitigation grants. Both bills are designed to prevent the IRS from taxing these grants.

With the help of Senators VITTER, TALENT, VOINOVICH, NELSON, FEINSTEIN, and LANDRIEU, I introduced this new legislation as a companion to Congressman MARK FOLEY's bill, H.R. 1134, in House of Representatives. I commend Mr. FOLEY for his hard work and dedication to this proposal. Also, I commend the Department of Treasury for recognizing the serious nature of this issue and committing to work with Congress to resolve it.

This new legislation adds additional language to ensure that FEMA disaster mitigation grant recipients do not abuse the tax-free nature of the grant by capitalizing on the increased value of his/her property. In addition, the new language provides for a prospective effective date.

It is important to note, however, that the President's budget proposal gives the Treasury Department the administrative authority to apply the policies of S. 586 and H.R. 1134 to cases involving mitigation payments where the statue of limitations has not expired. It is my understanding that the Department of Treasury has agreed to issue a notice to the IRS clearly indicating that, in accordance with the policies of S. 586 and H.R. 1134, those taxpayers who are in receipt of these mitigation grants prior to the enactment of this legislation will not be subject to extra tax liabilities.

This legislation came about as a result of a direct threat by the IRS to tax these disaster mitigation grants. As I have said before, I am absolutely stunned at this latest antic by the IRS. The last thing Americans who are working to prevent potential destruction from floods, tornadoes, and hurricanes need is for Government-grant funding to be subject to tax. My bill ensures that the IRS's disaster tax does not see the light of day.

I ask unanimous consent that two letters from the Department of Treasury be printed in the RECORD. These letters are written to the chairmen of both the Senate Finance Committee and the House Ways and Means Committee expressing support for S. 586 and H.R. 1134 and committing to prevent retroactive taxation at the request of Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC., March 14, 2005.

Hon. CHARLES GRASSLEY,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: I am writing to express the Administration's support for legislation to provide tax relief to property owners who participate in Federal Emergency Management Agency (FEMA) hazard mitigation projects, specifically H.R. 1134 and S. 586 sponsored by Representative Mark Foley and Senator Bond respectively.

FEMA provides grants through State and local governments to mitigate potential damage from future natural hazards. Examples of mitigation projects include demolition, retro-fitting, and elevation of buildings. As a result, these grant projects are distinguishable from other grant programs in that their goal is to avoid the larger costs of damage that otherwise would be compensated in the future out of the taxpayer funded Disaster Relief Fund, National Flood Insurance Program, other Federal assistance programs, and State, local and private sources. Through hazard mitigation programs, FEMA has funded community mitigation projects affecting individual properties for over fifteen years. In particular, FEMA makes grants under the Flood Mitigation Assistance program, the Hazard Mitigation Grant Program, and the Pre-Disaster Mitigation program.

Under current law, gross income generally includes all income from whatever source derived. Generally, the mitigation grants from FEMA (or construction services paid by grants) represent income to the recipients. Under specific statutory and administrative exceptions, gross income does not include certain government payments made to individuals in response to need resulting from particular disasters. However, grants under the three FEMA mitigation programs described above often are made in anticipation of future disasters and other natural hazards and are not need based. Consequently, the mitigation grants generally do not qualify for these specific exceptions.

Similarly, if a property owner participates in a FEMA-assisted acquisition of his or her property, the property owner generally is required to include in income any gain from the sale of the property (subject to the $250,000/$500,000 exclusion from income of gain from the sale of a principal residence).

By explicitly excluding FEMA mitigation grants from income, the Foley/Bond legislation provides tax relief to home and property owners that receive the grants. Because participation by property owners in FEMA projects is voluntary, there is concern that owners of at-risk properties might decline to participate because of the potential tax obligation under current law, thus adding to long term taxpayer funded recovery costs. This presents a potential impediment to the policy Congress initially sought to implement through these grant programs.

Finally, it is also my understanding that the effective dates of the Foley/Bond legislation are prospective and that the tax exemption for these FEMA mitigation grants will be recognized upon date of enactment of the bill. Because the issue of retroactivity is also one of fairness, it is our hope that Congress, consistent with the Administration's budget proposal, will encourage the Treasury Department to provide retroactive relief to those individuals who have utilized FEMA mitigation grants in the past.

I commend the House for acting quickly to address this issue and urge the Congress to send this legislation to the President for his signature.

Sincerely,

JOHN W. SNOW.

DEPARTMENT OF THE TREASURY,
Washington, DC, March 14, 2005.

Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: I am writing to express the Administration's support for legislation to provide tax relief to property owners who participate in Federal Emergency Management Agency (FEMA) hazard mitigation projects, specifically H.R. 1134 and S. 586 sponsored by Representative MARK FOLEY and Senator BOND respectively.

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JOHN W. SNOW.

CONDEMNING VIOLENCE AND CRIMINALITY IN NORTHERN IRELAND

Mr. DODD. Mr. President, I rise today to join my colleagues, Senators

KENNEDY, MCCAIN and others in condemning ongoing violence and criminality by the Irish Republican Army.

Our actions are prompted in part by our meeting yesterday with the sisters and fiance of Robert McCartney, a Catholic resident of Belfast who was brutally murdered on January 30, by individuals who are members of the IRA. These six young women, Catherine McCartney, Paula Arnold, Gemma McMacken, Claire McCartney, Donna Mary McCartney, and Bridgeen Karen Hagans, have publicly challenged the code of silence that generally surrounds IRA activities, including the brutal murder of their brother, an innocent bystander.

These brave women came to Washington seeking our help to ensure that this heinous act is not forgotten as time passes and that justice is done, not only on behalf of their brother, but for all the people of Northern Ireland—Protestant and Catholic alike. They have called upon the IRA and Sinn Fein to stop covering up Robert's murder, and to begin immediately to cooperate directly with the Northern Ireland Policing Service in order to bring to justice those responsible for this heinous crime.

In response to their appeal we believe that it is important that the United States Senate express itself on their behalf. That is why we have asked the Senate to act on the pending resolution. That is why President Bush met personally with these brave women at the White House earlier today—to highlight the importance of justice being done.

Our actions on this resolution and the President's meeting earlier today put the world on notice that we condemn such acts. In addition, with this resolution we call on the leadership of Sinn Fein to insist that everyone responsible for this murder be brought to justice and that anyone with knowledge about the crime cooperate fully and directly with the Police Service of Northern Ireland in making that possible.

As an Irish American, I look forward to the annual celebration of Saint Patrick's Day. Earlier today we participated in the Annual Speaker's luncheon with visiting Prime Minister of Ireland, Bertie Ahern to commemorate this day.

I must tell you that we did so with less exuberance than in past years when there was frankly more to be joyful about.

Ten years ago on this day, there was excitement and promise at our Saint Patrick's Day celebration—the 1994 IRA ceasefire had been in place for more than 6 months and there existed a positive climate conducive to finding a political resolution to a quarter century of sectarian violence.

Seven years ago, in 1998, there was even more concrete evidence that sectarian violence was over as we were literally days away from the parties signing the Good Friday Accords which they did on April 9 of that year. That document was crafted by the political parties under the able leadership of former Majority Leader George Mitchell with the active involvement of President Bill Clinton, and Prime Ministers Tony Blair and Bertie Ahern. It spelled out in black and white an agenda and institutions for delivering justice and equality to both traditions within a framework of inclusive self-government.

Our annual Saint Patrick's Day celebrations since 1998 have been an opportunity to take stock of the progress toward full implementation of the Good Friday Accords. I for one have approached this day each year with the hope that we might finally declare that the Accords were fully functioning, and that violence and terror were no longer a part of the fabric of Northern Ireland's society.

Sadly, this Saint Patrick's day we struggle to call the glass half full with respect to progress on the Accords. The Northern Ireland Assembly is in suspension, the assembly's Executive is vacant. The parties are deadlocked over what must be done to restart the process. Collectively, Northern Ireland's political leaders must accept responsibility for the political impasse that now exists. But Sinn Fein and the IRA carry a heavier burden than others for restarting the process. Sinn Fein, as an organization, must commit itself fully and unequivocally to solely political means to advance its agenda of equality and inclusion. There is no place in a democracy for a political organization to have its own private paramilitary organization. Sinn Fein cannot call itself a democratic organization if it does not severe all ties with the IRA, an organization which espouses, condones, and covers up unlawful acts such as murder and robbery. And, if the IRA is in fact committed to the full implementation of the Peace Accords as it has publicly stated, then it must fully and verifiably decommission its weapons and go out business entirely.

In my opinion, nothing short of these actions is going to repair the damage done to the peace process by the recent acts of criminality by the IRA. Public demonstrations by the Catholic community in Belfast in support of the McCartney sisters' quest for justice made it patently obvious that whatever support might have existed for the IRA in that community exists no longer. It is very clear that the people of Northern Ireland want to live in peace—they want an end to vigilantism and intimidation—they want transparency and the rule of law. They want a future for themselves and their children.

Today, Northern Ireland is a struggling democracy—at a crossroad. Elections have occurred. Elected representatives have been chosen. The mechanisms of self-government are clearly spelled out in the Good Friday Accords. Everyone knows what needs to be done to move the process forward. I hope and pray that those with the power to make a difference will have the courage to do the right thing. The people of Northern Ireland deserve and expect nothing less.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last week, a 15-year-old high school student was charged with assault after attacking a fellow student. According to police, the attacker yelled disparaging remarks about the victim's sexual orientation before the fight broke out. The victim was taken to the doctor with bruised ribs after he was repeatedly kicked.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

OPPOSING THE NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT

Mr. KYL. Mr. President, it has come to my attention that persons outside of the Senate have told Senators that I do not oppose S. 147, the latest incarnation of a bill that would create a tribal government for Native Hawaiians. This is untrue; it is probably being said because I agreed that the issue could be brought to the Senate floor for a vote. I continue to believe that this bill is profoundly unconstitutional and poses serious moral and political problems. I oppose this bill, and urge my colleagues to do so.

I ask unanimous consent that the following three news columns by Bruce Fein, constitutional scholar and former Reagan administration Justice Department official, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Mar. 11, 2005]

THE PINEAPPLE TIME BOMB

(By Bruce Fein)

It is not because Native Hawaiians should be cherished less but that equality under the law should be loved more that the Akaka Bill to create a race-based government should be opposed. The Senate Committee on Indian Affairs blithely approved the legislation Wednesday without seriously examining its constitutionality. The bill previously

passed the House in 2000 as a ''noncontroversial,'' like treating South Carolina's firing on Fort Sumter as a July Fourth celebration.

The proposed legislation would ordain a Native Hawaiian Governing Entity cobbled together by Native Hawaiians meeting a threshold of Native Hawaiian blood. The Entity would negotiate with the United States and the State of Hawaii for lands, natural resources, civil and criminal jurisdiction, and other matters within the customary purview of a sovereign. It would be a race-based state within a state: a government of Native Hawaiians, by Native Hawaiians, for Native Hawaiians. It does not deserve birth.

The grandeur of the United States has been a history of escape from ugly racial, ethnic or class distinctions. The nation celebrates equality of opportunity and merit rather than birth as the touchstone of destiny. American citizenship is defined by common ideals and aspirations unstained by hierarchy: no divisions between patricians or clergy, nobles and commoners. Indeed, the Constitution forbids titles of nobility.

Accordingly, Supreme Court Justice Antonin Scalia instructed in Adarand Constructors v. Pena (1995): ''To pursue the concept of racial entitlement—even for the most admirable and benign of purposes—is to reinforce and preserve for future mischief the way of thinking that produced race slavery, race privilege and race hatred. In the eyes of government, we are but one race here. It is American.''

The United States has flourished by overcoming stains on its creed of equality. Black slavery was ended by the 13th Amendment, and Jim Crow died with the Civil Rights Act of 1964 and Voting Rights Act of 1965. Individual Japanese-Americans got an apology and compensation for race-based maltreatment in World War II in the Civil Liberties Act of 1988.

Racism is defeated by its renunciation, not its practice. The latter pits citizen against citizen and invites strife and jealousies that weaken rather than strengthen.

An exclusive Native Hawaiian government is no exception. Justice Anthony Kennedy persuasively discredited the argument that the Akaka Bill will bring reconciliation between Native Hawaiians and their co-citizens in Rice v. Caytano (2000). In voiding a race-based restriction on the franchise for trustees of the Office of Hawaiian Affairs, Justice Kennedy sermonized: ''One of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities. . . . [T]he use of racial classifications is corruptive of the whole legal order democratic elections seek to preserve. The law itself may not become an instrument for generating the prejudice and hostility all too often directed against persons whose particular ancestry is disclosed by their ethnic characteristics and cultural traditions.''

The Akaka Bill would create an unprecedented race-based government in Hawaii. Prior to the 1893 dethronement of Queen Lili'uokalani, the monarchy treated Native Hawaiians and immigrants alike. Each enjoyed equal rights under the law. Ditto under the successor government and territorial authority after Hawaii's annexation by the United States in 1898. In other words, the race-based legislation would not restore the 1893 legal landscape, but enshrine an odious political distinction amongst Hawaii's inhabitants that never before existed.

A Native Hawaiian enjoys the same freedoms as other Americans. Native Hawaiians may celebrate a distinctive culture under the protection of the Constitution, like the Amish. Racial discrimination against a Native Hawaiian is illegal. And the civil and political rights of Native Hawaiians dwarf what was indulged by the sovereign under the former monarchy.

Stripped of rhetorical adornments, the Akaka Bill is racial discrimination for the sake of racial discrimination; a dishonoring of the idea of what it means to be an American and a formula for domestic convulsions.

[From the Washington Times, Oct. 5, 2004]

A RACE-BASED DRIFT?

(By Bruce Fein)

The nation's mindless celebration of multiculturalism and denigration of the American creed has reached a new plateau of destructiveness. A bill recently reported by the Senate Appropriations Committee (S. 344) would establish a race-based government for Native Hawaiians unconstrained by the restrictions of the U.S. Constitution. The bill's enactment would mark the beginning of the end of the United States, akin to the sack of Rome by Alaric the Great in 410 A.D. A country that wavers in its fundamental political and cultural values—like a nation half slave and half free—will not long endure.

S. 344 would erect an independent government for the lineal descendants of Native Hawaiians to honor their asserted ''rights as native people to self-determination and self-governance.'' Best estimates place their number at more than 400,000. Like Adolf Hitler's blood tests for Jews, a minuscule percentage of Native Hawaiian ancestry would establish an entitlement to participate in the new racially exclusive domain.

The right to self-determination means the right of a people to choose their sovereign destiny, whether independence, federation, accession to another nation or otherwise. Thus, the bill would overturn the past and prevailing understanding of the Civil War. As Chief Justice Salmon Portland Chase lectured, Ulysses S. Grant's defeat of Robert E. Lee established an indivisible national unity among indestructible states.

The Native Hawaiian government would be unbothered by the ''irritants'' of the U.S. Constitution. Thus, it might choose theocracy over secularism; summary justice over due process; indoctrination over freedom of speech; property confiscations over property rights; subjugation over equality; or, group quotas over individual merit. The Native Hawaiian citizens of the Native Hawaiian government would also be exempt from swearing or affirming allegiance to the United States of America or the U.S. Constitution.

The race-based sovereignty created by S. 344 is first cousin to a revolution against the United States. As the Declaration of Independence elaborates, revolutions may be justified by repression or deafness to pronounced grievances. Thomas Jefferson's indictment of King George III is compelling on that score. But S. 344 does not and could not find Native Hawaiians are oppressed or maltreated in any way. They are first-class American citizens crowned with a host of special privileges. Indeed, the proposed legislation acknowledges that, ''Native Hawaiians . . . give expression to their rights as native peoples to self-determination and self-governance through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children's services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school.''

The annexation of Hawaii by the United States in 1898 has proven a bright chapter in the history of democracy and human rights. Native Hawaiians had failed for centuries to build a democratic dispensation and the rule of law. When Queen Lili'uokulani was ousted from power in 1893, the potentate was no more eager to yield monarchical powers than was the shah of Iran. Annexation and statehood in 1959 brought all Hawaiian residents irrespective of race or ethnicity the blessings of the U.S. Constitution—government of the people, by the people, for the people. Native Hawaiians prospered far beyond the destiny available under Queen Lili'uokulani and her royal successors. Suppose Japan had attacked Pearl Harbor when under the queen's sovereignty. The Hawaiian Islands would have been colonized and brutalized as was Korea from 1910–1945.

American civilization has been a boon, not an incubus, for the Native Hawaiians living today. Generally speaking, they thrive from the benefits of science, medicine, literature, higher education, free enterprise, private property and freedom of inquiry, amenities and enjoyments not found in lands untouched by Western values and practices. As elaborated in the report of Senate Committee of Indian Affairs accompanying S. 344, Native Hawaiians' nagging resistance to complete assimilation seems to explain their suboptimal demographics. Hawaiian law, for example, has invariably guaranteed subsistence gathering rights to the people to retain native customs and traditions.

Not a crumb of legitimate grievance justifies the odious race-based government championed by S. 344. To borrow from Associate Supreme Court Justice Antonin Scalia in Adarand Construction vs. Pena (1995), in the eyes of the law and the creed of the United States, there is only one race in the nation. It is American. And to be an American is to embrace the values of freedom, individual liberty and equality acclaimed in the Declaration of Independence, Constitution and Gettysburg Address. S. 344 would create a distinct race of Native Hawaiians subject to a race-based Native Hawaiian government with the purpose of creating and preserving non-American values: namely, ''Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions.''

Native Hawaiians hold no more right to a race-based government than countless other racial or ethnic groups in the United States. They are no more entitled to secede from the jurisdiction of the U.S. Constitution than were the Confederate States of America. Enacting S. 344 would surrender the intellectual and moral underpinnings of the United States.

E PLURIBUS UNUM—DEBATING THE LEGALITY OF THE AKAKA BILL

(By Bruce Fein)

Hawaii Attorney General Mark Bennett is dead wrong in his support of the Akaka Bill.

The proposed legislation celebrates race-based divisiveness over America's highest aspirations for unity and equality. The bill is blatantly unconstitutional.

E Pluribus Unum is the nation's birth certificate.

Ben Franklin sermonized that if we do not all hang together; we assuredly shall all hang separately. Abraham Lincoln preached that ''A house divided against itself cannot stand.'' Supreme Court Justice Benjamin Cardozo in Baldwin v. Seelig (1935) observed: ''The Constitution was framed . . . upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division.'' Justice Antonin Scalia lectured in Adarand Constructors v.

Pena (1995) that the Constitution acknowledges only one race in the United States. It is American.

Attorney General Mark J. Bennett's spirited defense of the Akaka Bill (Hawaii Reporter, December 20, 2004) ignores this wisdom. It is nonsense on stilts. He talks about Congress' power to recognize tribes, but the Akaka Bill is not about recognizing a real tribe that truly exists. Instead, it proposes to crown a racial group with sovereignty by calling it a tribe. But to paraphrase Shakespeare, a racial group by any other name is still a racial group. Congress cannot circumvent the Constitution with semantics. The United States Supreme Court in United States v. Sandoval (1913) expressly repudiated congressional power arbitrarily to designate a body of people as an Indian tribe, whether Native Hawaiians, Jews, Hispanics, Polish Americans, Italian Americans, Japanese Americans, or otherwise. Associate Justice Willis Van Devanter explained with regard to congressional guardianship over Indians: ''[I]t is not meant by this that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe, but only that in respect of distinctly Indian communities the questions whether, to what extent, and for what time they shall be recognized and dealt with as dependent tribes requiring guardianship and protection of the United States are to be determined by Congress, and not by the courts.''

Attorney General Bennett incorrectly argues that the Supreme Court has interpreted the Indian Commerce Clause to endow Congress with plenary ''power to deal with those it finds to be Indian Tribes. . . .'' No such interpretation has ever been forthcoming, and thus Mr. Bennett is unable to cite a single case to support his falsehood. Indeed, it is discredited by the Sandoval precedent.

Congress enjoys limited powers under the Constitution. They are generally enumerated in Article I, section 8, and include the power to regulate commerce ''with the Indian tribes.'' Clause 18 also empowers Congress to make all laws ''necessary and proper'' for executing its enumerated authorities. Contrary to the Hawaii Attorney General, the Indian Commerce Clause has been understood by the Supreme Court as conferring a power to regulate the nation's intercourse with Indian Tribes, but not to summon a tribe into being with a statutory bugle. The Attorney General is also unable to articulate a connection between any enumerated power of Congress and the Akaka Bill's proposal to endow Native Hawaiians with the quasi-sovereignty and immunities of Indian Tribes.

He absurdly insists that the Founding Fathers intended an open-ended definition of Indian Tribe because contemporary dictionaries defined tribe as ''[a] distinct body of people as divided by family or fortune or any other characteristic.'' But the Constitution's makers employed ''Indian'' to modify tribe. That modifier was understood to include only peoples with an Indian ancestry coupled with a primitive culture that necessitated federal protection from predation by States or private citizens. In Sandoval, for example, Congress properly treated Pueblos as an Indian tribe because ''considering their Indian lineage, isolated and communal life, primitive customs and limited civilization, this assertion of guardianship over them cannot be said to be arbitrary. . . .'' Chief Justice John Marshall in The Cherokee Nation v. Georgia (1831) likened an Indian Tribe's dependency on the United States to the relation of a ward to his guardian. The Akaka Bill, however, does not and could not find that Native Hawaiians need the tutelage of the United States because of their backwardness or child-like vulnerability to exploitation or oppression. Indeed, their political muscle has made them spoiled children of the law, as Attorney General Bennett himself underscores. Finally, the Constitution aimed to overcome, not to foster, parochial conflicts or jealousies. That goal would be shipwrecked by a congressional power to multiply semi-sovereign Indian tribes at will.

He stumbles again in attributing to a court the statement, ''Indian tribes do not exist in Alaska in the same sense as in [the] continental United States.'' The statement was made by the Secretary of the Interior in a letter noting that Alaskan tribes occupied land which had not been designated as ''reservations,'' in contrast to Indian tribes.

Section 2 of the Fourteenth Amendment further undermines the Attorney General's accordion conception of Indian Tribe. It apportions Representatives among the States according to population, but ''excluding Indians not taxed.'' Mr. Bennett's argument would invite the majority in Congress to manipulate apportionment by designating entire States that generally voted for the opposition as Indian Tribes.

Finally, the Attorney General wrongly insinuates that Congress would be powerless to rectify historical wrongs to Native Hawaiians absent the Akaka Bill. Congress enjoys discretion to compensate victims or their families when the United States has caused harm by unconstitutional or immoral conduct, as was done for interned Japanese Americans in the Civil Liberties Act of 1988. Congress might alternatively establish a tribunal akin to the Indian Claims Commission to entertain allegations of dishonest or unethical treatment of Native Hawaiians. As the Supreme Court amplified in United States v. Realty Co. (1896): ''The nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based on considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of the individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition of claims against the government which are thus founded.''

TRIBUTE TO DECLAN CASHMAN

Mr. DAYTON. Mr. President, I rise to pay tribute to Ms. Declan Cashman who tomorrow marks her 20th year of service in the Senate.

Declan began her career in the Senate back in 1985 as a legislative secretary for my distinguished friend, Senator Dave Durenberger of Minnesota. She was promoted to positions on the Subcommittee on Intergovernmental Relations, the Permanent Subcommittee on Investigations, and the Committee on Health, Education, Labor, and Pensions. Today, she serves as my executive assistant, where she is invaluable to me and so many others on my staff. I do not sign a letter without first asking, ''Has Declan looked at this?''

Despite her busy work schedule, Declan has many creative pursuits. She is both a lover of the theater and a talented actress herself. Recently, she has performed at Washington's Studio Theater, the Chevy Chase Players, and the Silver Spring stage.

Declan is an inspiration to the young men and women who come to work in Washington every year. Every morning, she is the first to arrive in my office, where she proceeds to scour her hometown Boston Globe, the New York Times, the Washington Post's Style section, and Page Six, over a cup of black coffee. As her coworkers arrive, she enthusiastically shares the best stories with them.

On behalf of her Senate coworkers over the past 20 years and the thousands of constituents she has assisted, I thank Declan for her dedication and excellent public service. I hope that she will grace my office with her presence for the next 2 years. Then someone else will be my fortunate successor.

RECOGNITION OF THE 80TH ANNUAL PRINCE OF PEACE EASTER PAGEANT

Mr. INHOFE. Mr. President, I rise today in recognition of the 80th Annual ''The Prince of Peace'' Easter Pageant that has been performed annually in the historic Holy City of the Wichitas since 1926. I am very proud of this truly outstanding Oklahoma tradition and would like to congratulate the dedicated performers and organizers both past and present who have kept it alive all these years.

The pageant was the brainchild of a young pastor, Reverend Anthony Mark Wallock, of the First Congregational Church in Lawton, OK. Eighty years ago, he gathered a few hardy souls from his church and Sunday school class on a mountain peak at Medicine Park, OK, where he conducted a short Easter morning service. That worship ceremony, which was carried out in word, song, and pantomime, eventually became the world-renowned Easter pageant, ''The Prince of Peace.''

Word about the pageant spread quickly, and began attracting a larger audience. As a result, the pageant was moved to the foot of Mount Roosevelt in the heart of the Wichita Mountains Wildlife Refuge. The twenty-two buildings at the new site were completed and dedicated on March 31, 1935, and the first pageant there, performed on April 21, drew a crowd of 82,000 people.

In the 1940's, the pageant even drew the attention of Hollywood and in 1948 the film, ''The Lawton Story—The Prince of Peace'' was produced with the participation of many local citizens in Lawton and the surrounding area. Although Reverend Wallock passed away on December 26 of that year, the story of the pageant he founded lived on in the community that he loved.

Since then, hundreds upon thousands of volunteers have carried on the annual tradition of presenting this historic production. It has become the longest continuously running outdoor Easter pageant in America. Every Easter season, on Palm Sunday Eve and Easter Eve, starting at 9:00 in the evening, 300 costumed volunteer performers bring the pageant to life.

The voices of the characters come from the reading cast. Their timed speaking gives life to the pantomiming actors. Those in charge of music, sound effects, and the all-important lighting give realism to the story. The brilliant costumes, live animals, and surprise special effects all contribute to a rich and beautiful depiction of the life of Christ.

Mr. President, as the Easter season approaches and this storied pageant enters its 80th year, I extend my gratitude for all those who have committed to keep its flame burning. The message of hope and human redemption that is at the heart of this pageant is one that we sorely need today, and I hope that Reverend Wallock's inspiring legacy will live on for 80 more years and beyond.

IN MEMORY OF JAY CUTLER

Mr. SPECTER. Mr. President, I have sought recognition to inform the Senate of the passing of Jay Cutler on March 4, 2005. Jay was a dear friend to many in Washington, a loving husband, father, and grandfather to his family, and a true asset to Capitol Hill and the field of mental health policy. Both on the Hill and in his role as the lobbyist for the American Psychiatric Association, Jay worked diligently to educate people about mental health and to alleviate the stigma attached to mental illness. I had the pleasure of working closely with Jay on a number of issues affecting millions of Americans afflicted with these maladies.

Most importantly, Jay had an overwhelming love for his family, especially his wife, children, and grandchild. They, along with me, the United States Senate and Washington, DC will miss Jay dearly because he was a true inspiration to us all. In memory of Jay Cutler, I ask unanimous consent that Rabbi Joseph B. Meszler's eulogy of Jay be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JAY CUTLER (YOSEF BEN MOISHE)

RABBI JOSEPH B. MESZLER, WASHINGTON HEBREW CONGREGATION, MARCH 7, 2005

Sometimes, when people reach retirement, they experience what people call a second childhood. They are able to be a kid again and enjoy themselves. Jay Cutler, however, never stopped knowing how to be a kid, how to enjoy life to the utmost, and how to marvel at people and places and situations. He was always a big, wonderful, loving man whose warmth you felt almost instantly. Perhaps the pain at the injustice of his sudden death is tempered by the fact that he did not wait until his retirement to go out and enjoy life. Jay Cutler was a good man who was a wonderful husband and father, and the best grandfather. He was an extremely generous man in every sense of the word. A Hebrew proverb says, Neir Adonai nishmat adam; the light of God is a person's soul. Jay's soul gave a great deal of light and warmth.

We are here in this unbelievable situation, to grieve for the death of Jay, to try to accept the reality of this loss, and to feel the pain of grief. His family and friends are gathered because it feels like a huge light has gone out, and we are groping in the dark. At the same time, Jay would always find something light and even funny even in the darkest situations. And in telling stories about Jay, we are liable to laugh just as much as cry.

Jay was born the only child to Murray and Shirley Cutler in Brooklyn. He was not only the only child but also the first grandchild, and so his grandparents closed down the street and had a block party for him upon his arrival into this world. It would foreshadow a great deal of Jay's spirit in times to come.

Jay loved his parents, and they loved him dearly. He attended Tilden High School and then went to New York University as a business major. In his neighborhood, attending his same high school, was a young woman named Randy. Randy was on the cheering squad, and her friend wanted to set her up with this guy named Jay. ''You'll have a great time,'' her friend assured her. ''He makes great seal noises.'' They went to Jahn's Ice Cream Parlor. Jay was 19, and Randy was 16. Later, Jay would make the time to drive his car over to Randy's house so the two of them could wash it together. His car must have been very dirty because he did this almost every day. On weekends, they would go out on dates. They were married on April 5, 1952 at a synagogue in Brooklyn, and while they did not have a honeymoon, Jay and Randy said that they honeymooned for many years on many trips after that. Their marriage took place before Jay had to go overseas during the Korean War, and Randy remembers well their time in Georgia when they shared a house with other couples before Jay was shipped out.

Jay and Randy's love for each other was something to behold. They simply loved being together, and it is hard if not impossible to think of them apart. They have been married for almost 53 years, and they shared everything.

When Jay came back from the service, he went to Brooklyn Law School. In order to get by, they needed family support, and Jay clerked for his Uncle Julie and also worked at night in order to bring in some money. Soon Hollie was born, and Jay studied for the bar while Randy tried to keep her quiet.

In 1958, the family moved to Washington, DC, where Perri was born. Jay went to work for Granik & Marshall, a lobbying law firm that dealt often with public television, and Jay became especially interested in the production end of things. He worked there for ten years, but then Jay went to work for Senator Jacob Javitz of New York on Capital Hill.

Jay loved working on the Hill. He loved writing legislation and being a part of the process. He was also unusual. He was not only competent but helpful and friendly when many other people were not. A plaque in his office read, ''Mirthful Jay Cutler.'' Hollie was especially proud when people at work would meet her and say, ''You're Jay Cutler's daughter?'' And even though he was extremely modest, Jay accomplished a great deal. He would never put on airs or boast, but he was extremely good at getting people together and getting things done. A book that was written at the time called The Dance of Legislation which followed the development of the National Health Service Corps, and it featured Jay as one of its subjects. It became clear with regards to this major legislation that a great deal would not have happened if it weren't for Jay.

After working on Capitol Hill for ten years, Jay went to work as a lobbyist for the American Psychiatric Association. He worked for them for some 25 years, and he made a name for himself as not only a professional but as a mentor to others. He was well-respected and well-liked, and it might not be an exaggeration to say that he mentored half of the health lobbyists working on Capitol Hill today. Jay and Randy also did a tremendous amount of traveling, going all over the world on numerous trips. It was part of their life together to go to new places. He retired just last year and was looking forward to doing more consulting.

Upon his retirement, the Congressional Record, entered on April 30, 2003 by Senator Kennedy, praises Jay for his work. It explains that Jay was part and parcel of legislation having to do with mental illness reform and substance abuse treatment, and he believed passionately in improving the government's policies, alleviating suffering, and removing the stigma that mental illness can often bring. It also makes sure to mention Randy, his ever-present companion and support. Jay was, after all, first and foremost a family man. And all know him for the giving soul that he was. He was very generous, and gave of himself and his time freely.

As a father, Jay was always incredibly loving and playful with Hollie and Perri. He could make any child smile, laugh, and play. And he was not above stealing the chocolate frosting off of someone's plate if you left the table or pouring sugar into ashtrays at restaurants and setting them on fire. His children remember how much he loved the beach and could be found there from ten in the morning until sunset, and he would have been there earlier if he didn't like sleeping in while on vacation. He always seemed to have a permanent tan.

Jay was always there for his children, present but not intrusive, and was always positive and upbeat. Hollie knows what a special father she had, and she, too, went to law school. And Perri especially remembers her trip to King's Dominion with him and how he went on the rides with her even though he was somewhat horrified at the thought. And for the whole family, for Randy's siblings and their partners, Zelda and Arthur, Louis and Barbara, for his nieces and nephews: Sherry, Bonnie, Scott, Darrell, and Craig, and to his son-in-law Eric, bringing Rachael into his life, Jay was a source of happiness and strength.

But the center of his life was his love for his granddaughter, Mikayla. Jay's sun rose and set on this beautiful little girl who would lovingly call him ''Ga.'' He would do anything for her, and to her, he was one big, lovable toy. Only she was allowed to mess up his hair, and only she could bring him to entirely new levels of joy. His love and his life will have an impact on her far into the future.

Someone once wrote that life and death are not in our hands. Just as we do not choose to be born, so we do not choose to die. Jay's death is profoundly unfair. But he leaves a legacy of love and life that is hard to beat. He would have us smiling. His soul is certainly one of God's lights. Zichrono livracha. Jay's memory will always be a blessing.

LOSS OF FEDERAL AGENT DAVID WILHELM

Mrs. DOLE. Mr. President, tragedy struck Atlanta, GA this past Friday, March 11, 2005. A quiet day in a county courthouse turned into a horrific shooting spree that took the lives of four innocent people throughout the Georgia capital. Among those who fell victim that day were U.S. Immigration

and Customs Enforcement Assistant Special Agent-in-Charge David Wilhelm, who was shot and killed while working to finish his Atlanta home. Friday's heartbreak touches everyone in this country, and is sincerely felt in my hometown of Salisbury, NC, which Special Agent David Wilhelm also called home.

David Wilhelm is remembered as a true patriot, whose commitment to hard work, justice, and the enforcement of the law were admired by all who knew him. After graduating from West Rowan High School in 1982, Special Agent Wilhelm earned a criminal justice degree at the University of North Carolina at Charlotte. He began his Federal service as a U.S. Customs Agent in June 1987, in Beaufort, SC, and also served in Charlotte, NC and Norfolk, VA before relocating to Atlanta, GA last November. In Atlanta, he was second in command, managing the U.S. Immigration and Customs Enforcement investigations involving financial crimes, narcotics smuggling, human smuggling, and customs violations. His law enforcement colleagues knew him to be tenacious professionally and a superb team-builder with ace investigative skills and a generous spirit.

David Wilhelm's 18-year commitment to Federal service is most commendable. He spent 16 years with the U.S. Customs Service and 2 years with U.S. Immigration and Customs Enforcement. In 2001, he was recognized for his dedication and was awarded the prestigious U.S. Customs Service Blue Eagle Award for work on an important narcotics smuggling case resulting in the seizure of approximately two tons of marijuana and $2.4 million in cash. The Blue Eagle Award is bestowed annually for significant work that goes beyond the expected daily duties.

I have immense respect for the many Federal law enforcement agents who risk their lives daily to protect Americans. I am truly saddened by the loss of David Wilhelm, and my thoughts and prayers are certainly with his wife Candee, his brother Patrick, who serves as an Immigration and Customs Enforcement Agent in Atlanta, GA, and all his family and friends. May Special Agent David Wilhelm's dedication, sense of duty and honor never be forgotten. In addition, I would like to send my sincere condolences to the families, friends, and co-workers of the other three victims of Friday's violence, Judge Rowland Barnes, court reporter Julie Ann Brandau, and Sergeant Hoyt Teasley of the Fulton County Sheriff's Department.

RETIREMENT OF CAROLE GEAGLEY

Mr. SPECTER. Mr. President, at the end of March, 2005, Carole Geagley is retiring from the U.S. Senate, and I rise today to pay her tribute.

Carole began her Capitol Hill career in 1977 when she began working for the Joint Economic Committee, where she rose to the position of personal assistant to the executive director. Before that Carole was the office manager at the law firm of Seltzer and Suskird, from 1971 to 1977.

In 1990 she joined the Senate Appropriations Committee staff. At first Carole worked for the Subcommittee on Agriculture, Rural Development, and Related Agencies. She then made the move to Labor, Health and Human Services, Education, and Related Agencies. As the Senate majority changed over the years she worked for both Senator HARKIN and myself, helping manage the seamless transition between chairmanships for more than 15 years. As office administrator Carole has toiled behind the scenes to efficiently prepare many hearings this subcommittee has conducted. She has done everything from letters of invitation to witnesses, preparing background information for hearing books, creating data tables, and maintaining Member requests from Members of the Senate. For the professionalism of her work, she will be missed.

Yet it is for Carole's many other attributes that we will miss her the most. The youngest of four siblings, Carole's cheerful disposition, effervescent personality, and her famous cakes have made her the Perle Mesta of the Appropriations Committee. Her cakes and pies are so well known that TOM HARKIN, who is quite the chef himself, has asked for her recipes—especially her Coca-Cola cake. It should also be noted that her award-winning cheesecake is featured at a well-known restaurant in her home State of Maryland.

Carole has many other talents as well. She and her husband, Ron, are championship bridge players and have played in many national tournaments. In fact, that is how she met Ron, at a bridge tournament in 1975. They were married in 1977 and raised a beautiful daughter, Lori. They are now blessed with three grandchildren who we can all hope will inherit their grandmother's knack at cooking. My best wishes to Carole and her family on this occasion of her retirement.

Mr. HARKIN. I join my colleague in thanking Carole Geagley for her service to the U.S. Senate and wishing her well as she embarks in a new phase of her life.

Carole is an institution on the Appropriations Committee and not one that will soon be forgotten. She spent the longest period of her Appropriations life assisting the group of offices that staff call ''the Bullpen,'' a crowded space in the Hart Building that holds anywhere from five to seven subcommittee staffs. With different bills moving at different paces through the Senate, that area is often the locus for much activity, and Carole managed those interactions with a calm demeanor.

In that capacity, Carole came into contact with many Senators and many Senate offices. She is a storehouse of institutional knowledge, which she imparted to younger staffers when perspective and history needed to be their guides. And just as importantly, she fed them. Every staff birthday was celebrated with a Carole Geagley creation. One thing is certain: Appropriations Committee staff will never eat as well as they did when they worked with Carole.

I know that Carole will treat retirement with the same gusto with which she performed her various duties in the Senate. So today we congratulate Carole. We thank her for her longtime service to this institution and we wish the whole Geagley family the best.

ADDITIONAL STATEMENTS

TRIBUTE TO A GREAT NEW MEXICAN: J. PAUL TAYLOR

● Mr. BINGAMAN. Mr. President, I am pleased to come to the floor today to express my gratitude to J. Paul Taylor—a man of great passion for his wife and children, art and culture, education, border health, progressive politics, and last but definitely not least, improving the economic, social, and spiritual well-being of the people in the Mesilla Valley in southern New Mexico.

J. Paul Taylor has touched the lives of so many of the people throughout our great State of New Mexico, but what is most remarkable is that he has done so in so many different facets of life. News articles about him have never really captured but one small piece of his life, as they focus on: J. Paul Taylor: The Artist; J. Paul Taylor: The Historian; J. Paul Taylor: The Educator; J. Paul Taylor: The Politician; J. Paul Taylor: The Father of Border Health; J. Paul Taylor: The Advocate for the Poor; J. Paul Taylor: Children's Advocate.

Only J. Paul Taylor could be honored in the wide array of ways he has, including having New Mexico State University establish the J. Paul Taylor Endowment in the College of Education, the New Mexico Human Needs Coordinating Council establishing the J. Paul Taylor Legislative Champion Award to honor other legislators, the New Mexico Library Association naming him a ''New Mexico Library Treasure,'' getting the Lifetime Achievement Award with his wife from the New Mexico Historic Preservation Division, receiving the Voice for Children Award from the New Mexico Voices for Children, and the awards go on and on.

Representative Taylor was recently honored by his legislative colleagues in the New Mexico Roundhouse, both Democrats and Republicans. As the Las Cruces Sun-News reported, ''Taylor was described as 'the great gentleman of New Mexico politics,' and 'a populist advocate for the poor and disenfranchised.' He was also lauded for his effort to create the Office of Childhood Development and for the donation

of his home in Mesilla, to be converted into a museum following the death of Taylor and his wife, Mary.''

Earlier this month, J. Paul Taylor was unanimously confirmed as a member of the New Mexico National Hispanic Cultural Center and the awards and recognitions just keep on coming.

I am so pleased to have worked closely with J. Paul Taylor for the good of New Mexico and the people of the Mesilla Valley throughout my career and think words are impossible to express my gratitude to him for all that he has done for the people of New Mexico. He embodies the very best of our State—its culture and its heart and soul.●

CONGRATULATING THE UNIVERSITY OF ARKANSAS TRACK AND FIELD PROGRAM

● Mr. PRYOR. Mr. President, today I pay tribute to the University of Arkansas Track and Field Team on earning their 40th NCAA Title last weekend. This win also marks the team's 18th indoor track title, the most of any Division 1 athletic program in the Nation.

Saturday's win continues a long tradition of excellence for a program that boasts some the best attendance at track events nationwide. A crowd of 5,461 faithful fans cheered them on to victory in Fayetteville, AR last Saturday. The success of our talented athletes and coaches is a source of pride for all Arkansans.

Under the leadership of Head Coach John McDonnell, the Razorbacks have been a consistent powerhouse in collegiate athletics, earning him the honors as the Nation's winningest track and field coach. In his 33rd year as head coach, McDonnell has won 74 conference championships, 31-straight cross-country conference titles, and 5 NCAA triple crowns.

In fact, Coach McDonnell's team has won at least one national title in cross country, indoor or outdoor track in 20 of the past 21 years. It is no wonder that he has been named National Coach of the Year a total 27 times for his work with Arkansas athletics. Indeed, his record of success reads like a page out of the Guinness Book of World Records. His ability to recruit and hone the talents of the most outstanding athletes in collegiate track and field rightly identifies him with the greatest names in the history of college sports.

The young men that join the University of Arkansas track squad are models of athletic excellence. Their hard work and dedication to the sport are a source of pride and inspiration for Arkansans and sports fans everywhere. Among them are 156 All-American athletes who have won a total of 585 All-American honors for individual events, and the members of the Arkansas track and field team have earned a remarkable 102 national championships for individual events. In fact, the official web site of Razorback Athletics, www.hogwired.com, boasts that ''[track and field] athletes who letter four years are likely to leave with more rings than fingers.'' Additionally, twenty-five U of A track athletes have gone on to compete in the Olympic Games, the highest honor for an amateur athlete.

I would be remiss if I neglected to mention the essential contribution that the University of Arkansas's Athletic Director, Frank Broyles, makes to the success of the track program. Frank is a steadfast supporter of track and field, and by appointing Coach McDonnell to head the program in 1977 and funding the track program at an optimal level for the many years thereafter, this 40th National Title is a tribute to him and his work to make Arkansas athletics what it is today. A legend in the world of collegiate athletics and a model Arkansan, it is fitting the Arkansas Democrat-Gazette named Frank Broyles the most influential figure in athletics in the state during the 20th Century.

The Senate has a tradition of recognizing particularly extraordinary accomplishments of Americans, whether in military service, scholarly research, the arts, athletics or other fields. I believe that the University of Arkansas Track and Field Program deserve this recognition. Out of profound respect for the achievements of all the outstanding athletes that have played a role in the success of the Arkansas track and field program, the coaching staff under the direction of John McDonnell, and all the athletic staff at the University of Arkansas, I am pleased to express my congratulations to the Arkansas Razorbacks on their 40th National Track and Field Title.●

PAUL KLEBNIKOV

● Mrs. CLINTON. Mr. President, I will take some time today to tell the Senate about a New Yorker named Paul Klebnikov. Paul Klebnikov was an American journalist who was shot and killed in Moscow on July 9, 2004, as he left his office after work. The most plausible reason for his killing appears to be his investigative journalism, which has explored the connections between business, politics, and crime in Russia. The stilling of Paul Klebnikov's voice represents a direct challenge to independent journalism, democracy, and the rule of law in Russia. According to the Committee to Protect Journalists, CPJ, in the last 5 years, 11 journalists in Russia, including Paul Klebnikov, have died in ''contract-style'' killings.

Mr. Klebnikov's murder illustrates in tragic terms one of several threats faced by the press in today's Russia. Observers have described these threats as including the lack of accountability for the killing of journalists and government restrictions on the media.

It is in the broader context of the challenges to press freedom in Russia that the importance of Paul Klebnikov's murder has been brought home to me in a very personal way by his family, which has long ties to New York. Paul, with family roots in Russia, grew up in New York, and his wife and their children still reside in New York. At the time of his death at age 41, Paul Klebnikov was working in Moscow as the editor-in-chief of Forbes Russia, after having served as a senior editor at Forbes.

Paul Klebnikov's contributions to press freedom have received special recognition since his death. He was a recipient of the CPJ 2004 International Press Freedom Award. He was also a recipient of the 2004 Knight International Press Fellowship Award for achievements in the face of threats.

At the CPJ 2004 International Press Freedom Awards ceremony, Paul's widow Musa underlined Paul's deep sympathy for the plight of the Russian people and the way in which he chose to translate his ideals into action: ''Being surrounded by criminality, greed and misuse of power has made people suffer from apathy and hopelessness. Paul wanted to help ordinary Russians find courage. He was thrilled to edit a magazine for Russians, and use it to expose economic and moral corruption, and offer positive models instead.''

As Paul's widow Musa makes clear, a free press is an essential component of the effort to enhance transparency. A free and vital press helps to keep citizens informed and knowledgeable regarding the most important issues in their lives. Without accurate information on the most pressing public issues of the day, people are hindered in the exercise of their other rights, as well as in the conduct of the many other civic activities that are essential to the healthy functioning of a democracy.

That is why I have been seeking ways to bring attention to the contract-style killing of Paul Klebnikov at the highest levels of government. I have joined with a bipartisan group of my colleagues on the US Helsinki Commission, on which I serve, in writing to President Putin urging him to ensure the case is aggressively investigated and all those responsible are brought to justice.

And I wrote to President Bush to ask him to raise the issue of Paul's murder with President Putin during their meeting in Bratislava, Slovakia on February 24th. That meeting with President Putin presented an opportunity to make clear that all those involved in instigating, ordering, planning and carrying out the murder should be prosecuted to the full extent of the law.

I expressed to President Bush that his personal involvement would contribute enormously to the effort to bring all those responsible for Paul's murder to justice. And that such a result, in turn, would help to move Russia along the path to freedom and democracy, and strengthen Russian civil society.

Recent comments by Secretary Rice encourage me in my hope that the administration will emphasize, both in public to the world, as well as in private to Russian officials, the vital role a free press has to play in Russia. During Secretary Rice's February fifth visit to Warsaw, she underlined that it ''is important that Russia make clear to the world that it is intent on strengthening the rule of law, strengthening the role of an independent judiciary, permitting a free and independent press to flourish. These are all the basics of democracy.''

And around the same time as the Bratislava meeting between President Bush and President Putin, we learned of encouraging news reports. According to these reports, two suspects in the murder of Paul Klebnikov, who had been arrested in Belarus, were extradited to Russia; and one of them was charged in connection with Paul's murder.

Nonetheless, under the current state of affairs in Russia, I am convinced that if all those responsible for this crime are to be brought to justice, it is absolutely essential for President Bush and senior members of his Administration personally to raise Paul's case with senior officials of the Russian Government, including President Putin. It is my hope that if consistent pressure is applied in a determined manner by the U.S. Government, the Russian government will have the strongest incentive to follow through on the investigative efforts already begun, and pursue the leads in this case wherever, and however high, they reach.

It is vital that all those responsible for the murder of Paul Klebnikov be held accountable. Bringing those involved in his murder to justice will help to end any perception that those perpetrating violence against journalists in Russia are immune from the reach of the law. A free press, not threatened by violence or coercion, will aid the Russian people immeasurably in their quest for freedom and democracy. It is our obligation to continue to impress on the Russian Government the importance of bringing to justice those responsible for Paul Klebnikov's murder, both for Paul's sake and to strengthen the rule of law and a free press in Russia.●

IN PRAISE OF DAVID VIGLIAROLO BAUER

● Mrs. CLINTON. Mr. President, I am proud to submit this statement in praise of David Vigliarolo Bauer, a New York City public school student who won the top $100,000 prize in this year's Intel Science Talent Search, STS. David attends Manhattan's Hunter College High School, known for its excellence and high educational standards. His project, which was inspired by the events of September 11, began in the bio-organic chemistry lab of Professor Valeria Balogh-Nair at the City College of New York, CCNY. A coworker at the CCNY lab had been exposed to asbestos at Ground Zero the day of the attack. David has designed a new type of universal sensor for neurotoxins in the body which he believes has the potential to save thousands of lives by rapidly detecting and evaluating individual exposure to biochemical agents.

The Intel STS is often considered the ''junior Nobel Prize'' and is America's oldest and most highly regarded precollege science competition. Alumni of the program hold more than 100 of the world's most coveted science and math honors, including six Nobel Prizes.

David and his family can be proud of this outstanding achievement, and I am heartened by his interest in using science to the potential benefit of our first responders in the war on terrorism. I ask that the following New York Times article of March 16, 2005 be printed in the RECORD. I congratulate David Bauer for his creativity and leadership.

The article follows:

[March 16, 2005]

NEW YORKER TAKES TOP PRIZE IN INTEL SCIENCE CONTEST

(By Lia Miller)

New York City public school student whose project was inspired by the events of Sept. 11 has won the top prize of a $100,000 scholarship in this year's Intel Science Talent Search.

The winner, David L. V. Bauer, is a 17-year-old senior at Hunter College High School in Manhattan. He worked on a new method to detect toxic agents in the nervous system. Mr. Bauer said that his study could result in a patch, worn somewhat like a radiation patch is on a jacket, that would quickly detect how much neurotoxin a person had been exposed to.

''I was thinking more in terms of paramedics and individual exposure, so in the event of a terrorist attack, we would know the nature of the attack,'' he said.

Forty finalists have been competing for the last five days in Washington for $530,000 in scholarship money. Each finalist will receive at least $5,000.

Mr. Bauer began his study last year while working in the bio-organic chemistry lab of Prof. Valeria Balogh-Nair at the City College of New York. He said that a co-worker at the lab had been at ground zero the day of the attack. Mr. Bauer was amazed to hear that testing showed that the co-worker had a different level of exposure to asbestos in the bloodstream than others in the same area. It was this finding, Mr. Bauer said, that led him to begin thinking of a way to quickly determine a person's neurotoxin exposure levels through the use of fluorescent nanocrystals.

Mr. Bauer, who is from the Bronx, plans to attend the CUNY Honors College in the fall to study chemistry and hopes to teach at the university level one day.

Now that the competition is over, he said he was looking forward to taking up some of his other interests, which include fencing and overseeing an organization he founded called United Liberia, which runs a Web site that provides news about Liberia. Since seventh grade, Mr. Bauer has attended Hunter College High, a public high school administered by the college.

Professor Balogh-Nair, who was Mr. Bauer's mentor, said: ''He is an unusual student, both by the depth of his understanding of science—but he is multitalented—you seldom find a combination of talents in one person. He has great people skills, too.''

The last time a student from the New York metropolitan area won the top prize was in 2000, when Viviana Risca from Paul D. Schreiber Senior High School in Port

Washington, N.Y., won for encrypting a message on a DNA strand. This year there were 13 finalists from New York State, but only Mr. Bauer made the top 10.

The second-place winner was Tim Credo, 17, a senior from the Illinois Mathematics and Science Academy. He won a $75,000 scholarship for a study involving particle accelerators and a more precise way to measure brief intervals of time known as picoseconds. Third place went to Kelly Harris, 17, from C. K. McClatchy High School in Sacramento. She won a $50,000 scholarship for her study on Z–DNA and viral proteins.

The technology company Intel has sponsored the contest since 1999. Before then, the Westinghouse Electric Corporation sponsored it.●

RUTH CHICKERING CLUSEN

● Mr. FEINGOLD. Mr. President, I was deeply saddened at the passing of Ruth Chickering Clusen, a true champion for the environment and women's causes, and a dear friend whose memory I will always cherish.

Ruth's deep dedication to women's rights led to her outstanding leadership as president of both the Wisconsin and National League of Women Voters. As president, Ruth was at the forefront of the League's historic effort to pass an Equal Rights Amendment. Her national leadership put her at the center of the 1976 Presidential campaign when she hosted a debate between Gerald Ford and Jimmy Carter.

Ruth's commitment to women's rights was mirrored in her advocacy for the environment. Her tireless activism eventually led to her work as an Assistant Secretary on the environment in President Carter's Department of Energy, and to make a run for Congress in Wisconsin in 1982.

Whether she was teaching English to students or moderating Presidential candidates, Ruth was a true inspiration to those around her, and I am grateful to have been able to call her a friend.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:43 a.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bills:

S. 384. An act to extend the existence of the Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group for two years.

H.R. 1160. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2005, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 10:06 a.m., a message from the House of Representatives, delivered by Mr. Chiappardi, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1270. An act to amend the Internal Revenue Code of 1986 to extend the Leaking Underground Storage Tank Trust Fund financing rate.

H.R. 1332. An act to amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 98. Concurrent resolution expressing the grave concern of Congress regarding the recent passage of the anti-secession law by the National People's Congress of the People's Republic of China.

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 18. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian and Lebanese people by the Government of the Syrian Arab Republic.

H. Con. Res. 32. Concurrent resolution expressing the grave concern of Congress regarding the occupation of the Republic of Lebanon by the Syrian Arab Republic.

H. Con. Res. 103. Concurrent resolution providing for an conditional adjournment or recess of the two Houses.

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 18. Concurrent resolution expressing the grave concern of Congress regarding the continuing gross violations of human rights and civil liberties of the Syrian and Lebanese people by the Government of the Syrian Arab Republic; to the Committee on Foreign Relations.

H. Con. Res. 32. Concurrent resolution expressing the grave concern of Congress regarding the occupation of the Republic of Lebanon by the Syrian Arab Republic; to the Committee on Foreign Relations.

H. Con. Res. 98. Concurrent resolution expressing the grave concern of Congress regarding the recent passage of the anti-secession law by the National People's Congress of the People's Republic of China; to the Committee on Foreign Relations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 841. To require States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1311. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Scope Waiver for Intangibles Accounting Method Changes'' (Rev. Proc. 2005-17) received on March 16, 2005; to the Committee on Finance.

EC–1312. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—January 2005'' (Rev. Rul. 2005–22) received on March 16, 2005; to the Committee on Finance.

EC–1313. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''State and Local General Sales Tax Deduction'' (Notice 2005–31) received on March 16, 2005; to the Committee on Finance.

EC–1314. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Amended Returns'' (TD 9186) received on March 16, 2005; to the Committee on Finance.

EC–1315. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Losses Reported from Inflated Basis Assets from Lease Stripping Transactions'' (Uniform Issue List Number: 9226.01–00) received on March 16, 2005; to the Committee on Finance.

EC–1316. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transaction Relief for Certain Partnerships and Other Pass-Thru Entities under Section 470'' (Notice 2005–29) received on March 16, 2005; to the Committee on Finance.

EC–1317. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice-Dollar Approximate Separate Transactions Method'' (Notice 2005–27) received on March 16, 2005; to the Committee on Finance.

EC–1318. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Sections 142(a)(14); 142(l)—Project Nominations under the Brownfields Demonstration Program for Qualified Green Building and Sustainable Design Projects'' (Notice 2005–28) received on March 16, 2005; to the Committee on Finance.

EC–1319. A communication from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Deposits Made to Suspend the Running of Interest on Potential Underpayments'' (Rev. Proc. 2005–18) received on March 16, 2005; to the Committee on Finance.

EC–1320. A communication from the Chief, Publication and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Return Information to the Bureau of the Census'' ((RIN1545–BE01) (TD 9188)) received on March 16, 2005; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–34. A resolution adopted by the General Assembly of the State of Ohio relative to the protection of the Defense Supply Center Columbus (DSCC) from the Base Realignment and Closure process; to the Committee on Armed Services.

SENATE RESOLUTION NO. 36

Whereas, the DSCC is the twelfth largest employer in central Ohio, employing more than six thousand Ohioans; and

Whereas, the DSCC is known throughout the world by more than twenty-four thousand military and civilian customers as one of the largest suppliers of weapons systems parts; and

Whereas, the proud men and women of our armed forces rely on the proven competence, efficiency, and effectiveness of the DSCC; and

Whereas, the DSCC is economically vital to central Ohio, managing almost two million items and accounting for more than two billion dollars in annual sales; and

Whereas, the employees of the DSCC, along with the employees' family members, are active members of central Ohio's communities, schools, and neighborhoods' and

Whereas, State and local leaders and leaders from businesses, organizations, and various associations around central Ohio have formed a team, known as ''Team DSCC,'' to promote and preserve the DSCC. ''Team DSCC'' has made strong efforts to save DSCC from closure, which include increasing local- and federal-level advocacy, increasing awareness about DSCC, and striving to relocate military personnel to the base: Now, therefore be it

Resolved, The members of the Senate offer support of the Defense Supply Center Columbus, its mission, and its employees, recognizing that they are an integral part of central Ohio's economy and community, as well as the nation's defense. The members of the Senate join ''Team DSCC'' in recognizing and promoting the current capabilities and future growth opportunities of the DSCC. The members of the Senate stand ready to assist as necessary to protect the DSCC from the Base Realignment and Closure process; and be it further

Resolved, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, to the Secretary of Defense, to the members of the Ohio Congressional delegation, to the Speaker and Clerk of the United

States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, and to the news media of Ohio.

POM–35.A resolution adopted by the City Council of the City of Seattle, Washington relative to the Community Development Block Grant (CDBG) Program; to the Committee on Banking, Housing, and Urban Affairs.

POM–36. A resolution adopted by the City Council of the City of Seattle, Washington relative to the federal government's proposal to charge market rates for electricity sold by the Bonneville Power Administration to its preference customers; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 48. A bill to reauthorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes (Rept. No. 109-41).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 182. A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes (Rept. No. 109-42).

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 188. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

S. 589. A bill to establish the Commission on Freedom of Information Act Processing Delays.

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 667. An original resolution to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Anthony Joseph Principi, of California, to be a Member of the Defense Base Closure and Realignment Commission.

*John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

*George M. Dennison, of Montana, to be a Member of the National Security Education Board for a term of four years.

*James William Carr, of Arkansas, to be a Member of the National Security Education Board for a term of four years.

*Kiron Kanina Skinner, of Pennsylvania, to be a Member of the National Security Education Board for a term of four years.

Air Force nomination of Maj. Gen. Claude R. Kehler to be Lieutenant General.

Air Force nominations beginning with Colonel Robert R. Allardice and ending with Colonel Robert Yates, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Col. James J. Dougherty III and ending with Col. Patricia C. Lewis, which nominations were received by the Senate and appeared in the Congressional Record on March 8, 2005.

Army nomination of Maj. Gen. Stanley E. Green to be Lieutenant General.

Army nomination of Col. Charles K. Ebner to be Brigadier General.

Army nominations beginning with Col. James O. Barclay III and ending with Col. Dennis E. Rogers, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Army nominations beginning with Brigadier General Byron S. Bagby and ending with Brigadier General Richard P. Zahner, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Army nominations beginning with Brig. Gen. Donald L. Jacka, Jr. and ending with Col. Jerry D. La Cruz, Jr., which nominations were received by the Senate and appeared in the Congressional Record on March 2, 2005.

Navy nomination of Rear Adm. Evan M. Chanik, Jr. to be Vice Admiral.

Navy nomination of Rear Adm. Barry M. Costello to be Vice Admiral.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Arlene D. Adams and ending with Robert G. Young, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2005.

Air Force nominations beginning with Erik L. Abrames and ending with Duojia Xu, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Air Force nomination of Steven F. Reck to be Colonel.

Air Force nomination of Mark D. Miller to be Colonel.

Air Force nomination of Nancy B. Grane to be Colonel.

Air Force nomination of Jack M. Davis to be Colonel.

Air Force nominations beginning with Ramon Morales and ending with Frank M. Wood, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Richard E. Ando, Jr. and ending with Kenneth S. Papier, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Stephen H. Gregg and ending with Robert L. Shaw, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with John P. Albright and ending with Louis B. Miller, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Lester H. Bakos and ending with Gregory G. Movsesian, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Charles M. Bolin and ending with James A. Withers, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Bruce Steuart Ambrose and ending with Patricia L. Wildermuth, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Karen A. Baldi and ending with Paul E. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Vickie Z. Beckwith and ending with Gayle Seifullin, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Paul N. Austin and ending with Florence A. Valley, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nominations beginning with Edmund O. Anderson and ending with Scott A. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 2005.

Air Force nomination of Kenneth M. Francis to be Lieutenant Colonel.

Air Force nomination of Vito Manente to be Lieutenant Colonel.

Air Force nomination of Jeffrey H. Wilson to be Lieutenant Colonel.

Air Force nominations beginning with David C. Abruzzi and ending with Michael J. Zuber, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Air Force nominations beginning with Steven G. Allred and ending with John R. Wrockloff, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Air Force nominations beginning with Travis R. Adams and ending with Wendy J. Wyse, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Air Force nominations beginning with Christopher N. Aasen and ending with Ronald J. Zwickel, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Army nominations beginning with Peter W. Aubrey and ending with Jeffrey K. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Army nominations beginning with Michael J. Arinello and ending with James E. Whaley III, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Army nominations beginning with Donna A. Alberto and ending with Douglas A. Wild, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Army nominations beginning with Ronald P. Alberto and ending with X2800, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Army nomination of Gerald L. Dunlap to be Colonel.

Army nomination of Robert D. Saxon to be Colonel.

Army nominations beginning with Richard R. Guzzetta and ending with Robert J. Johnson, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2005.

Army nominations beginning with James R. Hajduk and ending with Fritz W. Kirklighter, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2005.

Army nominations beginning with Brian E. Baca and ending with Anthony E. Baker, Sr.,

which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2005.

Army nomination of William T. Monacci to be Colonel.

Army nominations beginning with Brian J. Tenney and ending with Karen T. Welden, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Army nominations beginning with David J. Bricker and ending with Wayne A. Steltz, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Army nominations beginning with Larry N. Barber and ending with David D. Worcester, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Army nominations beginning with Hays L. Arnold and ending with William C. Otto, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Army nomination of John P. Guerreiro to be Major.

Army nomination of Evelyn I. Rodriguez to be Major.

Army nomination of Demetres William to be Major.

Army nominations beginning with Kenneth A. Beard and ending with Karen E. Semeraro, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Army nominations beginning with Stanley P. Allen and ending with Henry J. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Marine Corps nominations beginning with Robert S. Abbott and ending with Ronald M. Zich, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Marine Corps nominations beginning with Carlton W. Adams and ending with Wayne R. Zuber, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2005.

Marine Corps nominations beginning with Keith R. Anderson and ending with Gary K. Wortham, which nominations were received by the Senate and appeared in the Congressional Record on January 31 , 2005.

Marine Corps nominations beginning with Michael S. Driggers and ending with Robert R. Sommers, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2005.

Navy nominations beginning with Donald R. Bennett and ending with George B. Younger, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Navy nomination of Matthew S. Gilchrist to be Lieutenant.

By Mr. GRASSLEY for the Committee on Finance.

Daniel R. Levinson, of Maryland, to be Inspector General, Department of Health and Human Services.

By Mr. SPECTER for the Committee on the Judiciary.

William Gerry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

Paul A. Crotty, of New York, to be United States District Judge for the Southern District of New York.

J. Michael Seabright, of Hawaii, to be United States District Judge for the District of Hawaii.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BUNNING (for himself, Mrs. LINCOLN, Mr. LOTT, Mr. BOND, and Mr. CHAMBLISS):

S. 646. A bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. SPECTER, Mr. ENSIGN, Ms. LANDRIEU, and Mr. DAYTON):

S. 647. A bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes; to the Committee on Finance.

By Mr. SMITH:

S. 648. A bill to amend the Reclamation States Emergency Drought Relief Act of 1991 to extend the authority for drought assistance; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:

S. 649. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to make volunteer members of the Civil Air Patrol eligible for Public Safety Officer death benefits; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. CONRAD, Mr. FRIST, Mr. JOHNSON, Mr. TALENT, Mr. DORGAN, Mr. COLEMAN, Mr. DURBIN, Mr. THUNE, Mr. BAYH, Mr. DEWINE, Ms. STABENOW, Mr. BUNNING, Mr. DAYTON, Mr. OBAMA, Mr. SALAZAR, and Mr. BOND):

S. 650. A bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID:

S. 651. A bill to amend title 5, United States Code, to make creditable for civil service retirement purposes certain periods of service performed with Air America, Incorporated, Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Incorporated, while those entities were owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 652. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Energy and Natural Resources.

By Mr. MARTINEZ (for himself, Mr. FRIST, Mr. ALEXANDER, Mr. BUNNING, Mr. COLEMAN, Mr. ENSIGN, Mr. BROWNBACK, Mr. COBURN, Mr. CORNYN, Mr. INHOFE, Mr. SESSIONS, Mr. SANTORUM, Mr. VITTER, Mr. HAGEL, Mr. DEMINT, Mr. STEVENS, Mr. CONRAD, Mr. ISAKSON, and Mr. DEWINE):

S. 653. A bill for the relief of the family of Theresa Marie Schiavo; considered and passed.

By Mr. LEAHY (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 654. A bill to prohibit the expulsion, return, or extradition of persons by the United States to countries engaging in torture, and for other purposes; to the Committee on Foreign Relations.

By Mr. ISAKSON (for himself and Mr. CHAMBLISS):

S. 655. A bill to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED:

S. 656. A bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Ms. LANDRIEU):

S. 657. A bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Ms. LANDRIEU, Mr. ALLARD, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DEWINE, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. MARTINEZ, Ms. MURKOWSKI, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, and Mr. TALENT):

S. 658. A bill to amend the Public Health Service Act to prohibit human cloning; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK:

S. 659. A bill to amend title 18, United States Code, to prohibit human chimeras; to the Committee on the Judiciary.

By Mrs. DOLE (for herself and Mr. BURR):

S. 660. A bill to provide for the acknowledgement of the Lumbee Tribe of North Carolina, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. GRASSLEY, and Mrs. LINCOLN):

S. 661. A bill to amend the Internal Revenue Code of 1986 to provide for the modernization of the United States Tax Court, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. CARPER, and Mr. VOINOVICH):

S. 662. A bill to reform the postal laws of the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself, Mr. THOMAS, Mr. ISAKSON, and Mr. BURNS):

S. 663. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

By Mr. LEAHY:

S. 664. A bill to adjust the boundaries of Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself, Mr. GRAHAM, and Mr. AKAKA):

S. 665. A bill to reauthorize and improve the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 to establish a program to commercialize hydrogen and fuel cell technology, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. KENNEDY, Mr. LUGAR, Mr. HARKIN, Ms. COLLINS, Mr. DURBIN, Mr. SMITH, Mr. DODD, Mr. CORNYN, Mr. LAUTENBERG, Mr. MCCAIN, Mr. REED, Ms. SNOWE, Ms. MURKOWSKI, Mr. CHAFEE, and Mr. SPECTER):

S. 666. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 667. An original resolution to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. SPECTER:

S. 668. A bill to provide enhanced criminal penalties for willful violations of occupational standards for asbestos; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Mrs. LINCOLN, Mr. THOMAS, and Mr. DORGAN):

S. 669. A bill to amend the Internal Revenue Code of 1986 to treat natural gas distribution lines as 15-year property for purposes of depreciation; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. SALAZAR):

S. 670. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself, Ms. SNOWE, Mr. SMITH, and Mr. AKAKA):

S. 671. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain fuel cell property; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. BAUCUS, Mr. MCCAIN, Mr. BINGAMAN, Mr. JOHNSON, Ms. CANTWELL, Mr. COCHRAN, and Mr. DOMENICI):

S. 672. A bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. BINGAMAN, and Mr. CONRAD):

S. 673. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans; to the Committee on Finance.

By Mr. CORZINE:

S. 674. A bill to provide assistance to combat HIV/AIDS in India, and for other purposes; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself, Mr. HAGEL, Mr. BROWNBACK, Mr. JOHNSON, Mr. DURBIN, Mr. BURNS, Mr. CONRAD, Mr. DAYTON, and Mr. HARKIN):

S. 675. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. FRIST, Mr. SPECTER, Mr. ALEXANDER, Mr. DEWINE, Mrs. CLINTON, and Mrs. HUTCHISON):

S. 676. A bill to provide for Project GRAD programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself, Mr. KERRY, Mr. ENSIGN, Mr. LIEBERMAN, Mr. BROWNBACK, Mrs. CLINTON, Mr. SMITH, Mr. SCHUMER, Mr. TALENT, Mr. CORZINE, Mr. COBURN, and Mr. HATCH):

S. 677. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 678. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on Rules and Administration.

By Mr. COLEMAN (for himself and Mr. LEVIN):

S. 679. A bill to amend title 10, United States Code, to require the registration of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes; to the Committee on Armed Services.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. MCCAIN, and Mr. DURBIN):

S. 680. A bill to provide for various energy efficiency programs and tax incentives, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DODD, Mr. BROWNBACK, Mr. HARKIN, and Mr. SPECTER):

S. 681. A bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 682. A bill to authorize the establishment of a Social Investment and Economic Development Fund for the Americas to provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere, and for other purposes; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 683. A bill to ban the manufacture, sale, delivery, and transfer of handguns that cannot be personalized, and to provide for a report to Congress on the commercial feasibility of personalizing firearms; to the Committee on the Judiciary.

By Mr. REED:

S. 684. A bill to amend the Natural Gas Act to provide additional requirements for the siting, construction, or operation of liquefied natural gas import facilities; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 685. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. DODD, Mrs. CLINTON, Mr. BIDEN, Mr. LEAHY, Mr. LAUTENBERG, Mr. SMITH, and Mr. GREGG):

S. Res. 84. A resolution condemning violence and criminality by the Irish Republican Army in Northern Ireland; considered and agreed to.

By Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, and Mr. ENZI):

S. Res. 85. A resolution designating July 23, 2005, and July 22, 2006, as ''National Day of the American Cowboy''; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. BINGAMAN, Ms. CANTWELL, Mr. BURNS, Mr. INOUYE, Mr. JOHNSON, Mrs. DOLE, Mrs. BOXER, Ms. LANDRIEU, Mr. ALEXANDER, Ms. SNOWE, Mrs. CLINTON, Mr. REID, Mr. COCHRAN, Mr. GREGG, Mr. BURR, Mr. ISAKSON, Mr. HATCH, and Mr. REED):

S. Res. 86. A resolution designating August 16, 2005, as ''National Airborne Day''; to the Committee on the Judiciary.

By Mr. THUNE (for himself, Mr. CRAIG, Mr. INHOFE, Mr. BOND, Mr. DOMENICI, Mr. TALENT, Mr. CRAPO, Mr. BUNNING, Mr. JOHNSON, and Mr. ROBERTS):

S. Res. 87. A resolution expressing the sense of the Senate regarding the resumption of beef exports to Japan; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. SARBANES, Mr. CORZINE, Mr. BAUCUS, Mr. COCHRAN, Mr. CRAPO, Mr. DODD, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINCOLN, Mrs. MURRAY, Mr. PRYOR, Mr. SANTORUM, Mr. SCHUMER, Ms. STABENOW, and Mr. THOMAS):

S. Res. 88. A resolution designating April 2005 as ''Financial Literacy Month''; considered and agreed to.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. Res. 89. A resolution congratulating the Montana FFA on its 75th Anniversary and celebrating the achievements of Montana FFA members; considered and agreed to.

By Mr. LUGAR (for himself, Mr. BAYH, Mr. CORZINE, and Mrs. DOLE):

S. Res. 90. A resolution designating the week of May 1, 2005, as ''Holocaust Commemoration Week''; considered and agreed to.

By Mr. SMITH (for himself, Mr. BIDEN, Mr. BROWNBACK, Mr. KYL, Mr. CHAMBLISS, Mr. ENSIGN, Mrs. DOLE, Mr. DEWINE, Mr. LIEBERMAN, and Mr. ALLEN):

S. Res. 91. A resolution urging the European Union to maintain its arms export embargo on the People's Republic of China; considered and agreed to.

By Mr. COCHRAN (for himself and Mr. LAUTENBERG):

S. Con. Res. 20. A concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN:

S. Con. Res. 21. A concurrent resolution expressing the grave concern of Congress regarding the recent passage of the anti-secession law by the National People's Congress

of the People's Republic of China; to the Committee on Foreign Relations.

By Mr. SUNUNU (for himself and Mr. GREGG):

S. Con. Res. 22. A concurrent resolution congratulating Bode Miller for winning the 2004–2005 World Cup overall title in Alpine skiing; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. TALENT, his name was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 151

At the request of Mr. PRYOR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 268

At the request of Mr. HARKIN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 328

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 328, a bill to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 337

At the request of Mr. GRAHAM, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was withdrawn as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

At the request of Mr. CRAIG, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 359, supra.

S. 360

At the request of Ms. SNOWE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 360, a bill to amend the Coastal Zone Management Act.

S. 397

At the request of Mr. CRAIG, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 453

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 453, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an extension of eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants.

S. 484

At the request of Mr. WARNER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 493

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 493, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 539

At the request of Mr. MARTINEZ, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 539, a bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

S. 580

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 580, a bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

S. 589

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. RES. 64

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 64, a resolution expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment.

S. RES. 83

At the request of Mr. SANTORUM, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. Res. 83, a resolution commemorating the 65th Anniversary of the Black Press of America.

AMENDMENT NO. 151

At the request of Mr. BIDEN, the names of the Senator from Wisconsin (Mr. KOHL), the Senator from New York (Mr. SCHUMER), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KERRY), the Senator from Colorado (Mr. SALAZAR), the Senator from Florida (Mr. NELSON), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Delaware (Mr. CARPER), the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Mr. SARBANES), the Senator from Rhode Island (Mr. REED), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Arkansas (Mr. PRYOR), the Senator from Michigan (Mr. LEVIN), the Senator from West Virginia (Mr. BYRD), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 151 intended to be proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 151 intended to be proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 153

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of amendment No. 153 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 154

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 154 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 156

At the request of Mr. SARBANES, the names of the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 156 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. KOHL, his name was added as a cosponsor of amendment No. 156 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 159

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 159 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 169

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 169 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 169 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 172

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 172 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 177

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 177 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 177 proposed to S. Con. Res. 18, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 177 proposed to S. Con. Res. 18, supra.

At the request of Ms. CANTWELL, her name was added as a cosponsor of amendment No. 177 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 180

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 180 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 187

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 187 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 188

At the request of Mrs. FEINSTEIN, the names of the Senator from Texas (Mr. CORNYN), the Senator from New York (Mr. SCHUMER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. CLINTON) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 188 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 189

At the request of Mr. DODD, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mrs. CLINTON), the Senator from Washington (Mrs. MURRAY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mr. SCHUMER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of amendment No. 189 intended to be proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 192

At the request of Mrs. LINCOLN, the names of the Senator from Indiana (Mr. BAYH), the Senator from New Mexico (Mr. BINGAMAN), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Washington (Ms. CANTWELL), the Senator from Missouri (Mr. TALENT) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of amendment No. 192 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 195

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 195 intended to be proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 197

At the request of Mr. ALLEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of amendment No. 197 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 199

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 199 intended to be proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 202

At the request of Mr. DAYTON, the names of the Senator from Michigan

(Mr. LEVIN), the Senator from Michigan (Ms. STABENOW) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 202 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 204

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Washington (Mrs. MURRAY), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Arkansas (Mrs. LINCOLN), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. SCHUMER), the Senator from Washington (Ms. CANTWELL), the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from California (Mrs. FEINSTEIN), the Senator from Illinois (Mr. OBAMA), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Iowa (Mr. HARKIN), the Senator from Michigan (Ms. STABENOW), the Senator from Florida (Mr. NELSON), the Senator from Wisconsin (Mr. KOHL), the Senator from Rhode Island (Mr. REED), the Senator from South Dakota (Mr. JOHNSON), the Senator from Maryland (Ms. MIKULSKI), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 204 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 214

At the request of Mr. WYDEN, the names of the Senator from Florida (Mr. NELSON), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Ms. CANTWELL), the Senator from Michigan (Ms. STABENOW) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 214 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 214 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 216

At the request of Mr. KERRY, his name was added as a cosponsor of amendment No. 216 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 217

At the request of Mr. CONRAD, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Ohio (Mr. DEWINE), the Senator from Vermont (Mr. LEAHY) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of amendment No. 217 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 218

At the request of Mrs. HUTCHISON, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 218 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 218 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 219

At the request of Ms. LANDRIEU, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Mrs. MURRAY), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. ALLEN) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 219 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. CONRAD, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 219 proposed to S. Con. Res. 18, supra.

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 219 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 220

At the request of Mr. AKAKA, his name was added as a cosponsor of amendment No. 220 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. LIEBERMAN, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 220 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 222

At the request of Mr. LEVIN, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 222 intended to be proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

AMENDMENT NO. 223

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 223 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. VITTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 223 proposed to S. Con. Res. 18, supra.

AMENDMENT NO. 224

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 224 proposed to S. Con. Res. 18, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

At the request of Mr. VITTER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 224 proposed to S. Con. Res. 18, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUNNING (for himself, Mrs. LINCOLN, Mr. LOTT, Mr. BOND, and Mr. CHAMBLISS):

S. 646. A bill to amend the Internal Revenue code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce legislation that will resolve a longstanding inequity in the tax treatment of U.S. distilled spirits that penalizes the wholesalers, and some suppliers, of these products.

Under current law, wholesalers of distilled spirits are not required to pay the Federal excise tax on imported spirits until after the product is removed from a bonded warehouse for sale to a retailer.

In contrast, the tax on domestically produced spirits is included as part of the purchase price and passed on from the supplier to wholesaler. After factoring in the Federal excise tax (FET)—which is $13.50 per proof gallon—domestically produced spirits can cost wholesalers 40 percent more to purchase than comparable imported spirits.

In some instances, wholesalers and even suppliers can carry this tax-paid inventory for an average of 60 days before selling it to a retailer. Interest charges—more commonly referred to as float—resulting from financing the Federal excise tax can be quite considerable.

For example, at a 5 percent interest rate on the sale of 100,000 cases of domestic spirits, a wholesaler will incur finance charges of $21,106.85 for loans related to underwriting the cost of paying the Federal excise tax. It is important to note that it is not uncommon for wholesalers to sell a million or more cases per year of domestic spirits.

The costs associated with financing Federal excise taxes amount to a tax on a tax, making the effective rate of the Federal excise tax for domestic spirits much higher than $13.50 per proof gallon.

The Domestic Spirits Tax Equity Act would give wholesalers and suppliers in bailment States a tax credit toward the cost of financing the FET for domestically produced products.

I believe this legislation is fundamentally fair and will help protect and create jobs for the wholesale tier in Kentucky and many other States. This legislation, which has broad support in both chambers and on both sides or the aisle, has passed the Senate Finance Committee and the House Ways and Means Committee several times, and has reached the President's desk under a previous Administration. It's time to finally get this legislation over the goal line.

I wish to emphasize, however, that I will reject any connection between a repeal of Section 5010 of the Internal Revenue Code or an increase in Federal taxes for distilled spirits. Tax equity for one tier should not be achieved by placing additional burden on other tiers within the same industry.

My colleagues, Senators LINCOLN, LOTT and BOND join me in introducing this legislation, I which the Joint Tax Committee estimates would reduce Federal revenues by approximately $249 million over ten years. I understand that similar legislation will be introduced in the House of Representatives. I urge my colleagues to support this legislation when it comes before the Senate.

By Mr. LUGAR (for himself, Mr. HARKIN, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. CONRAD, Mr. FRIST, Mr. JOHNSON, Mr. TALENT, Mr. DORGAN, Mr. COLEMAN, Mr. DURBIN, Mr. THUNE, Mr. BAYH, Mr. DEWINE, Ms. STABENOW, Mr. BUNNING, Mr. DAYTON, Mr. OBAMA, Mr. SALAZAR, and Mr. BOND):

S. 650. A bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes; to the Committee on Environment and Public Works.

LUGAR. Mr. President, I am pleased to rise today to introduce bi-partisan legislation to increase the security of our Nation, improve our environment, and add job opportunities in all 50 States in the union. This legislation has the strong support of 20 of my fellow colleagues and is the product of a great deal of bipartisan work.

This legislation seeks to curb the negative consequences that stem from our Nation's insatiable appetite for oil. Oil has served America well and indeed has fueled a dramatic portion of this Nation's rise to prosperity. However, our dependence on oil carries a multitude of risks and costs in addition to the ever higher prices paid by Americans at the fuel pump.

Oil is a magnet for conflict. The problem is simple—everyone needs energy, but the sources of the world's transportation fuel are concentrated in relatively few countries. Well over two-thirds of the world's remaining oil reserves lie in the Middle East.

Energy is vital to a country's security and material well-being. A state unable to provide its people with adequate energy supplies or desiring added leverage over other people often resorts to force. Consider Saddam Hussein's 1990 invasion of Kuwait, driven by his desire to control more of the world's oil reserves, and the international response to that threat. The underlying goal of the U.N. force, which included 500,000 American troops, was to ensure continued and unfettered access to petroleum.

This unwelcome dependence keeps U.S. military forces tied to the Persian Gulf, forces foreign policy compromises and sinks many developing nations into staggering debt as they struggle to pay for expensive dollar-denominated oil.

The growth of economies in China and India, representing a third of the world's population that grows by 200,000 people per day, will bring greater stress on the finite supply of natural resources, refining capacity and distribution capability, and the consequential skyrocketing prices would be a destabilizing economic blow.

In addition, oil causes environmental conflict. The possibility that greenhouse gases will lead to catastrophic climate change is substantially increased by the 40 million barrels of oil burned every day by vehicles. Subsequent environmental problems are often predicted as destabilizing factors in the form of drought, flooding or famine.

Such political, economic and environmental trauma is preventable if we are on a course of developing more homegrown energy and developing new technology.

That is why I have joined with my colleagues to introduce the Fuels Security Act of 2005. This act would more than double the current production of renewable fuels derived from sources available in every corner of the United States. More importantly, this increased production and use will spur investment in critical infrastructure that will allow for the economical use of renewable fuels by all Americans. Specifically, this bill would require the use of 4 billion gallons of renewable fuels per year in 2006 increasing to 8 billion gallons per year by 2012. Thereafter the requirements may be increased based on the nation's production and use of these fuels, as well as consideration of our economy and environment. While these figures may sound impressive, they still only represent a small portion of our nation's transportation fuel use of over 185 billion gallons last year.

Some critics have argued that the production of renewable fuels benefits only corn and soybean farmers in the Midwest. And while I agree that agriculture communities will benefit, farmers will be less reliant upon direct government subsidy payments while encouraging land conservation and providing energy security for our country. Additionally, many farmers view their ability to produce domestic fuels as a matter of patriotism in defense of this nation. However, the current ability of U.S. grains to free us from the shackles of oil dependence does have its limits. This is why I have long supported efforts to increase the production of fuels from all parts of a plant, which could be grown throughout the United States.

When I was chairman of the Agriculture, Nutrition and Forestry Committee, I initiated a biofuels research program to help decrease U.S. dependency on foreign oil. The Biomass Research and Development Act of 2000, which I authored and worked to pass, remains the nation's premier legislation guiding renewable fuels research. During a time of relatively low fuel prices I also co-authored ''The New Petroleum'' in Foreign Affairs with former CIA Director James Woolsey, extolling the need to accelerate the use of ethanol, especially that derived from cellulose, in order to stem future world conflict. It is clear from this research and the evolving instability in oil-rich regions of our world that it is time to act to enhance the use of renewable fuels.

This legislation is an important and rational step forward in our nation's overall security and economic well-being. I look forward to working with my colleagues in the Senate in passing this bill for the good of the American people.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fuels Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE II—FEDERAL REFORMULATED FUELS

TITLE I—GENERAL PROVISIONS

SEC. 101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ETHANOL.—

''(i) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(I) dedicated energy crops and trees;

''(II) wood and wood residues;

''(III) plants;

''(IV) grasses;

''(V) agricultural residues; and

''(VI) fibers.

''(ii) WASTE DERIVED ETHANOL.—The term 'waste derived ethanol' means ethanol derived from—

''(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

''(II) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes—

''(I) cellulosic biomass ethanol;

''(II) waste derived ethanol;

''(III) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

''(IV) any blending components derived from renewable fuel, except that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection.

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel specified in subparagraph (B).

''(ii) COMPLIANCE.—Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this subsection are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel.

''(iii) NO REGULATIONS.—If the Administrator does not promulgate the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel Calendar year:	(In billions of gallons)
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0

''(ii) CALENDAR YEARS 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

''(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

''(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

''(iii) LIMITATION.—An increase in the applicable volume for a calendar year under clause (ii) shall be not less than the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce during the calendar year; and

''(I) the quotient obtained by dividing—

''(aa) 8,000,000,000; by

''(bb) the number of gallons of gasoline sold or introduced into commerce during calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2006 through 2011, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements under paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refiners, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations to any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11).

''(4) EQUIVALENCY.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) REGULATIONS.—The regulations promulgated to carry out this subsection shall provide for—

''(i) the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

''(ii) the generation of an appropriate amount of credits for biodiesel fuel; and

''(iii) if a small refinery notifies the Administrator that the small refinery waives the exemption provided by this subsection, the generation of credits by the small refinery beginning in the year following the notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the calendar year in which the credit was generated.

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions permitting any person that is unable to generate or purchase sufficient credits to meet the requirement under paragraph (2) to carry forward a renewables deficit if, for the calendar year following the year in which the renewables deficit is created—

''(i) the person achieves compliance with the renewables requirement under paragraph (2); and

''(ii) generates or purchases additional renewables credits to offset the renewables deficit of the preceding year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity

of renewable fuels necessary to meet the requirements under paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirements under paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year;

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

''(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

''(D) PERIODS.—The 2 periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements under paragraph (2), in whole or in part, on a petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which a petition is received by the Administrator under subparagraph (A), the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove the petition.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate on the date that is 1 year after the date on which the waiver was granted, but may be renewed by the Administrator, after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) SMALL REFINERIES.—

''(A) IN GENERAL.—Paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i).

''(B) STUDY.—Not later than December 31, 2008, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirements under paragraph (2) would impose a disproportionate economic hardship on small refineries.

''(C) SMALL REFINERIES AND ECONOMIC HARDSHIP.—For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for the small refinery for not less than 2 additional years.

''(D) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirements under paragraph (2) for the reason of disproportionate economic hardship.

''(ii) EVALUATION.—In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(E) CREDIT PROGRAM.—Paragraph (6)(A)(iii) shall apply to each small refinery that waives an exemption under this paragraph.

''(F) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (C).''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' and inserting ''(n), or (o)'' each place it appears; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' and inserting ''(n), and (o)'' each place it appears.

SEC. 102. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than non-ethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

''(3) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of 'fleet' by subparagraphs (A) through (H) of section 301(9).''.

SEC. 103. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m)(1) In order to improve the ability to evaluate the effectiveness of the renewable fuels mandate of the United States, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) In conducting the survey, the Administrator shall collect information both on a national and regional basis, including—

''(A) information on—

''(i) the quantity of renewable fuels produced;

''(ii) the quantity of renewable fuels blended;

''(iii) the quantity of renewable fuels imported; and

''(iv) the quantity of renewable fuels demanded; and

''(B) market price data.''.

TITLE II—FEDERAL REFORMULATED FUELS

SEC. 201. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on the date that is 1 year after the date of enactment of this Act, except that the amendments shall take effect upon that date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)).

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITION OF PADD.—In this subparagraph, the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years

2001 and 2002, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 2001 and 2002.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report under this subclause and for subsequent years.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2006, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations (or any successor regulations), to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) AUTHORITY OF ADMINISTRATOR.—Nothing in this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator of the Environmental Protection Agency before the date of enactment of this Act regarding—

(1) emissions of toxic air pollutants from motor vehicles; or

(2) the adjustment of standards applicable to a specific refinery or importer made under the prior regulations.

(e) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

''(11) DETERMINATION REGARDING A STATE PETITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, not later than 30 days after the date of enactment of this paragraph, the Administrator shall determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements under paragraph (2)(B).

''(B) APPROVAL.—If a determination under subparagraph (A) is not made by the date that is 30 days after the date of enactment of this paragraph, the petition shall be considered to be approved.''.

SEC. 202. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether;

''(II) tertiary amyl methyl ether;

''(III) di-isopropyl ether;

''(IV) tertiary butyl alcohol;

''(V) other ethers and heavy alcohols, as determined by the Administrator;

''(VI) ethanol;

''(VII) iso-octane; and

''(VIII) alkylates;

''(ii) conduct a study on the effects on public health, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements otherwise applicable under sections 211(k)(1) and 211(k)(3); and

''(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of these studies.

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities including but not limited to National Energy Laboratories and institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

SEC. 203. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) (as added by section 101(a)(2)) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Fuels Security Act of 2005.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment, but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 204. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) OZONE TRANSPORT REGION.—

''(i) APPLICATION OF PROHIBITION.—

''(I) IN GENERAL.—In addition to the provisions of subparagraph (A), upon the application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

''(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

''(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

''(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

''(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

''(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

''(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

''(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 205. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking ''(C) A State'' and inserting the following:

''(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

''(i) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.''.

SEC. 206. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 207. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

SEC. 208. REPORT ON RENEWABLE MOTOR FUEL.

Not later than January 1, 2007, the Secretary of Energy and the Secretary of Agriculture shall jointly prepare and submit to Congress a report containing recommendations for achieving, by January 1, 2025, at least 25 percent renewable fuel content (calculated on an average annual basis) for all gasoline sold or introduced into commerce in the United States.

FUELS SECURITY ACT OF 2005

Mr. HARKIN. Mr. President, today, along with my colleague, Senator LUGAR, and a bipartisan coalition of 19 other Senators, am introducing important legislation to set an ambitious Renewable Fuels Standard for this country. This legislation will more than double the amount of ethanol and biodiesel in the Nation's fuel supply to at least 8 billion gallons a year by 2012. It firmly commits our Nation to clean sources of domestic energy, and is a bold step toward energy security, a strong rural economy, and a healthier environment.

We have a growing problem of energy supplies and prices in this country. Today, 97 percent of our transportation fuel comes from oil, nearly two-thirds of which is from foreign sources.

This heavy dependence on petroleum undermines our energy security. It wreaks havoc on consumers, with record high prices now for gasoline. It costs jobs—27,000 lost U.S. jobs for every $1 billion in imported oil—and threatens our environment. A full one-third of greenhouse gases now come from vehicle emissions.

We have a choice. We can stand by and fuel our addiction to foreign oil, or we can make an aggressive shift toward clean, domestic renewable fuels like ethanol and biodiesel.

In the 108th Congress, we approved an RFS of 5 billion gallons a year by 2012. At the time, this represented a strong push for renewable fuels. But since that time, renewable fuels production in this country has grown dramatically. Domestic ethanol production grew 21 percent in 2004 to 3.4 billion gallons, helping to buffer rising crude oil prices.

The Environment and Public Works Committee, recognizing this success, reported yesterday a modestly increased RFS of 6 billion gallons a year by 2012. I applaud this step forward, but we can do more. The Energy Future Coalition has said that ''increased production of domestic renewable fuels is the single most important step the United States could take to reduce its dependence on foreign oil,'' and I agree.

Our Nation already has the capacity to produce nearly 4 billion gallons of ethanol a year, almost a third of it in Iowa. The biofuels industry's output is on track to surpass even our ambitious target of 8 billion gallons a year by 2012. Several studies further indicate that renewable fuels could provide more than 25 percent of our transportation fuel by 2025. Our bill will ensure that market demand for these fuels grows accordingly.

Many of the biofuels plants that will be built will be farmer-owned, bringing tremendous added value to our rural economies. For example, according to a recent study, each typical ethanol plant built in the United States creates 700 jobs, expands the local economic base by over $140 million, and increases the local corn price by 5 to 10 cents a bushel. Iowa's ethanol plants are expected to contribute $4 billion annually to our state's economy once all are in production. This RFS is expected to create over 200,000 new jobs nationwide, add nearly $200 billion to our GDP, and do more to reduce foreign oil dependence than all of the oil in the Alaska National Wildlife Refuge could possibly do.

This legislation has built-in flexibility through a system of tradable credits for refiners who exceed their minimum requirement. It takes strong

measures to protect air and water quality, and it rewards production of second-generation biofuels such as cellulosic ethanol that promise tremendous value to farmers, consumers and the environment.

For these reasons, our bill has generated strong support from a broad range of interests. I have here a letter endorsing our bill signed by more than a dozen groups, including the Iowa Renewable Fuels Association, the National Renewable Fuels Association, the Energy Future Coalition, the National Farmers Union, the National Corn Growers Association, the American Farm Bureau Federation, the American Soybean Association, the American Coalition for Ethanol, and many others.

Farmers and biofuel producers are ready to lead our Nation toward a future based on renewable energy. I sincerely hope that Congress and the administration will get behind commonsense energy policy and support this ambitious RFS. I ask unanimous consent that the text of the bill, along with the letter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 17, 2005.

Re the Fuels Agreement and the Renewable Fuels Standard.

The Hon. BILL FRIST,
U.S. Senate Majority Leader,
Washington, DC.
The Hon. HARRY REID,
U.S. Senate Minority Leader,
Washington, DC.

DEAR MAJORITY LEADER FRIST AND MINORITY LEADER REID: The undersigned organizations are writing to express our strong support for S. 650, legislation establishing a Renewable Fuels Standard (RFS) growing to 8 billion gallons by 2012. This landmark legislation would increase the nation's energy independence, protect air and water quality, provide increased flexibility for refiners, and stimulate rural economies through the increased production of domestic, renewable fuels.

The ethanol and biodiesel industries have undergone unprecedented growth over the past several years. In fact, the U.S. currently has the capacity to produce more than 3.7 billion gallons of ethanol and biodiesel, and plants under construction will add an additional 700 million gallons of capacity by the end of the year. Most of this growth has been in farmer-owned plants, which taken as a whole, now represent the single largest producer in the country. Clearly, the renewable fuels industry is poised to make a significant contribution to this nation's energy supply.

With rising crude oil and gasoline prices hurting consumers, and record petroleum imports exacerbating our trade imbalance and slowing economic growth, we need to be maximizing the production and use of domestic renewable fuels such as ethanol and biodiesel. Enacting an RFS that would provide a market of 8 billion gallons by 2012 demonstrates a firm commitment to reducing this nation's foreign oil dependence while providing a significant impact to the American economy. Specifically (in 2005 dollars):

The production and use of 8 billion gallons of ethanol, biodiesel and other renewable fuels by 2012 will displace over 2 billion barrels of crude oil and reduce the outflow of dollars largely to foreign oil producers by $64.1 billion between 2005 and 2012. As a result of the RFS, America's dependence on imported oil will be reduced from an estimated 68 percent to 62 percent.

The renewable fuels sector will spend an estimated $6 billion to build 4.3 billion gallons of new ethanol and biodiesel capacity between 2005 and 2012.

The renewable fuels sector will spend nearly $70 billion on goods and services required to produce 8 billion gallons of ethanol and biodiesel by 2012. Purchases of corn, grain sorghum, soybeans, corn stover and wheat straw, alone will total $43 billion between 2005 and 2012.

The combination of this direct spending and the indirect impacts of those dollars '' circulating throughout the economy will:

Add nearly $200 billion to GDP between 2005 and 2012.

Generate an additional $43 billion of household income for all Americans between 2005 and 2012, and

Create as many as 234,840 new jobs in all sectors of the economy by 2012.

We urge your support of this important bill as the Congress considers comprehensive energy policy legislation. The RFS is a vital and necessary component of any energy policy designed to reduce our nation's dependence on foreign sources of petroleum.

Sincerely,

Renewable Fuels Association, American Farm Bureau Federation, National Corn Growers Association, American Soybean Association, National Grain Sorghum Producers, American Coalition for Ethanol, National Biodiesel Board, Energy Future Coalition, Biotechnology Industry Organization, New Uses Council, National Sunflower Association, United States Canola Association, Ethanol Producers & Consumers, Environmental & Energy Study Institute, National Farmers Union.

Mr. JOHNSON. Mr. President, I rise today to join twenty of my Senate colleagues in introducing landmark legislation that will double the amount of ethanol used in motor fuel by 2012.

The Fuels Security Act of 2005 establishes a renewable fuels standard program beginning with 4 billion gallons in 2006 and culminating in 8 billion gallons in 2012—nearly a 40 percent increase from legislation that I first sponsored in 2003. The legislation creates a functioning and flexible market for ethanol produced from South Dakota's farmer-owned plants. South Dakota has more farmer-owned ethanol plants than any other State, and South Dakota producers deliver a greater percentage of corn for ethanol production than any neighboring State. Revising and strengthening the proposed RFS is important to South Dakota producers and our value-added economy.

In 2004, the domestic ethanol industry produced a record 3.4 billion gallons of ethanol and an additional 700 million gallons of capacity will be added in 2005. Because of the strong increase in ethanol production over the last few years it is necessary to revisit and revise the proposed RFS to more accurately reflect the growing market. Increasing the RFS schedule to 8 billion gallons in 2012 ensures market stability and encourages investment in ethanol plants and transportation infrastructure.

Ethanol stands out as an agriculture sector that is resisting the move toward greater consolidation and concentration. The Fuels Security Act of 2005 goes a long way toward ensuring that farmers retain market power and will continue to play a leading role in renewable energy production.

While adjusting the schedule to match growth is crucial, equally important is ensuring that the schedule and standard are not eroded by a permissive credit program or inconsistent and suspect waiver authority provisions. To that end, the Fuels Security Act of 2005 creates a one-year credit program to provide flexibility to blenders without diluting the RFS requirement. An ill-defined or open-ended credit program will cause investors to hedge against investing in new ethanol facilities as the guarantee of an increased baseline is weakened through multi-year credit trading language.

Additionally, the bill includes an effective tool to ensure that after 2012, America's renewable fuel market does not diminish and capacity and production match demand. The bill directs the Secretaries of Agriculture and Energy, as well as the Environmental Protection Agency to ensure the RFS schedule grows with the overall motor vehicle fuel pool after 2013.

I am proud to stand with over a dozen agriculture, clean energy and renewable fuels organizations that support this legislation. Accordingly, I ask unanimous consent that a letter written by over a dozen agriculture and energy groups be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1)

Mr. JOHNSON. Mr. President, I am encouraged that as a consequence of the strong bipartisan support for increasing the RFS to 8 billion gallons, my colleagues and I can add this bill to a comprehensive energy proposal working through the Senate.

Furthermore, as a member of the Senate Energy and Natural Resources Committee, I remain committed to working with my Senate colleagues, Chairman DOMENICI and Majority Leader FRIST and Minority Leader REID toward ensuring that the Fuels Security Act of 2005 becomes law.

EXHIBIT 1

MARCH 17, 2005.

Re the Fuels Agreement and the Renewable Fuels Standard.

Hon. BILL FRIST,
U.S. Senate Majority Leader,
Capitol Building, Washington, DC.
Hon. HARRY REID,
U.S. Senate Minority Leader,
Capitol Building, Washington, DC.

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The ethanol and biodiesel industries have undergone unprecedented growth over the past several years. In fact, the U.S. currently has the capacity to produce more than 3.7 billion gallons of ethanol and biodiesel, and plants under construction will add an additional 700 million gallons of capacity by the end of the year. Most of this growth has been in farmer-owned plants, which taken as a whole, now represent the single largest producer in the country. Clearly, the renewable fuels industry is poised to make a significant contribution to this nation's energy supply.

With rising crude oil and gasoline prices hurting consumers, and record petroleum imports exacerbating our trade imbalance and slowing economic growth, we need to be maximizing the production and use of domestic renewable fuels such as ethanol and biodiesel. Enacting an RFS that would provide a market of 8 billion gallons by 2012 demonstrates a firm commitment to reducing this nation's foreign oil dependence while providing a significant impact to the American economy. Specifically (in 2005 dollars):

The production and use of 8 billion gallons of ethanol, biodiesel and other renewable fuels by 2012 will displace over 2 billion barrels of crude oil and reduce the outflow of dollars largely to foreign oil producers by $64.1 billion between 2005 and 2012. As a result of the RFS, America's dependence on imported oil will be reduced from an estimated 68 percent to 62 percent.

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The combination of this direct spending and the indirect impacts of those dollars circulating throughout the economy will:

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Generate an additional $43 billion of household income for all Americans between 2005 and 2012, and

Create as many as 234,840 new jobs in all sectors of the economy by 2012.

We urge your support of this important bill as the Congress considers comprehensive energy policy legislation. The RFS is a vital and necessary component of any energy policy designed to reduce our nation's dependence on foreign sources of petroleum.

Sincerely,

Renewable Fuels Association; American Farm Bureau Federation; National Corn Growers Association; American Soybean Association; National Grain Sorghum Producers; American Coalition for Ethanol; National Biodiesel Board; Energy Future Coalition; Biotechnology Industry Organization; New Uses Council; National Sunflower Association; United States Canola Association; Ethanol Producers & Consumers; Environmental & Energy Study Institute.

Mr. OBAMA. Mr. President, I am pleased to join as a cosponsor of the Fuels Security Act of 2005, which sets a renewable fuels standard for the years 2006 to 2012.

To lessen our dependence on foreign oil and strengthen our economy here at home, renewable fuels like ethanol ought to be a larger part of our domestic fuel supply. This bill will contribute to that objective, and I commend Senators LUGAR and HARKIN for their leadership in crafting this legislation.

Yesterday, during the markup of a similar bill in the Senate Environment and Public Works Committee, I expressed strong support for establishing a meaningful renewable fuels standard as an important part of a comprehensive national energy policy. The bill before the Committee set targets at 3.8 billion gallons in 2006 and 6 billion gallons in 2012, improving upon last year's RFS provision in the energy bill conference report that set targets at 3.1 billion gallons and 5 billion gallons, respectively.

I voted for the chairman's mark yesterday because it gets the RFS debate rolling in the new Congress. However, I also noted that it has been widely reported in the trade press that the 30-state Governors Ethanol Coalition has recommended to the President that refiners be required to purchase a minimum volume of ethanol of at least 4 billion gallons in 2006, rising to 8 billion gallons in 2012. This recommendation adds weight to the view expressed by me and others that the committee's targets are too conservative.

Why are these specific targets so important? They are important if we are to maximize the ethanol industry's ability to boost farm income by providing a new market for corn; to promote economic growth in rural communities by increasing production in existing plants and attracting investment in new community-sized ethanol facilities; and to reduce our alarming dependence on imported oil by expanding the volume of ethanol in our transportation fuel mix.

These are important objectives. They matter. And that is why it is important to get the specific targets right.

In committee yesterday, I suggested that since ethanol production is expected to reach 4 billion gallons this year, we ought to adjust the committee bill's RFS targets on the Senate floor to reflect current market reality. I am pleased that Chairman INHOFE seemed open to that debate.

I think the Governors Ethanol Coalition recommendation of at least 4 billion gallons in 2006 and 8 billion gallons in 2012 is a good place to start this debate. I think any RFS legislation enacted by Congress should contain these levels.

That is why I am pleased to cosponsor the Fuels Security Act introduced by Senators LUGAR and HARKIN today. The ethanol volume targets in this bill—4 billion gallons in 2006 and 8 billion gallons in 2012—are in much greater alignment with expected ethanol production in future years than those in the Committee bill.

Earlier this week, I had the opportunity to tour the Aventine ethanol plant in Pekin, IL. My visit reminded me of the work of a Pekin native more than 50 years ago. That person—Senator Everett Dirksen—encouraged federal lawmakers to consider ''processing our surplus farm crops into an alcohol . . . to create a market in our own land for our own people.''

Today, farmers across Illinois, including farmers near Pekin, are growing corn for fuel, both strengthening our energy security and providing an economic boost to rural communities. By enacting a meaningful RFS, we are displacing more foreign oil with homegrown energy. We are expanding the market for Illinois corn. And we are promoting the use of renewable fuel. Remember, unlike other energy sources, when you run out of ethanol, you can simply grow more.

For too many years, America has been overly dependent on foreign oil to meet its domestic energy needs. And, despite rising crude oil prices and unsettling volatility in the Persian Gulf, that trend is increasing, not declining. Renewable fuels such as ethanol can help address this dangerous dependence on foreign oil. And a strong renewable fuels standard will maximize this contribution.

By Mr. REID:

S. 651. A bill to amend title 5, United States Code, to make creditable for civil service retirement purposes certain periods of service performed with Air America, Incorporated, Air Asia Company Limited, or the Pacific Division of Southern Air Transport, Incorporated, while those entities were owned or controlled by the Government of the United States and operate or managed by the Central Intelligence Agency; to the Committee on Homeland Security and Governmental Affairs.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

(a) IN GENERAL.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting ''; and'';

(3) by adding after paragraph (17) the following:

''(18) any period of service performed before 1977, while a citizen of the United States, in the employ of Air America, Incorporated, Air Asia Company Limited (a subsidiary of Air America, Incorporated), or the Pacific Division of Southern Air Transport, Incorporated, at a time when that corporation (or subsidiary) was owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency.''; and

(4) by adding at the end the following: ''For purposes of this subchapter, service of the type described in paragraph (18) of this subsection shall be considered to have been service as an employee, and the Office of Personnel Management shall accept the certification of the Director of the Central Intelligence Agency or his designee concerning any such service.''.

(b) EXEMPTION FROM DEPOSIT REQUIREMENT.—Section 8334(g) of title 5, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding after paragraph (6) the following:

''(7) any service for which credit is allowed under section 8332(b)(18) of this title.''.

SEC. 2. APPLICABILITY.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall apply with respect to annuities commencing on or after the effective date of this Act.

(b) PROVISIONS RELATING TO CURRENT ANNUITANTS.—Any individual who is entitled to an annuity for the month in which this Act becomes effective may, upon application submitted to the Office of Personnel Management within 2 years after the effective date of this Act, have the amount of such annuity recomputed as if the amendments made by this Act had been in effect throughout all periods of service on the basis of which such annuity is or may be based. Any such recomputation shall be effective as of the commencement date of the annuity, and any additional amounts becoming payable for periods before the first month for which the recomputation is reflected in the individual's regular monthly annuity payments shall be payable to such individual in the form of a lump-sum payment.

(c) PROVISIONS RELATING TO INDIVIDUALS ELIGIBLE FOR (BUT NOT CURRENTLY RECEIVING) AN ANNUITY.—

(1) IN GENERAL.—Any individual (not described in subsection (b)) who becomes eligible for an annuity or for an increased annuity as a result of the enactment of this Act may elect to have such individual's rights under subchapter III of chapter 83 of title 5, United States Code, determined as if the amendments made by this Act had been in effect, throughout all periods of service on the basis of which such annuity is or would be based, by submitting an appropriate application to the Office of Personnel Management within 2 years after—

(A) the effective date of this Act; or

(B) if later, the date on which such individual separates from service.

(2) COMMENCEMENT DATE, ETC.—

(A) IN GENERAL.—Any entitlement to an annuity or to an increased annuity resulting from an application under paragraph (1) shall be effective as of the commencement date of such annuity (subject to subparagraph (B), if applicable), and any amounts becoming payable for periods before the first month for which regular monthly annuity payments begin to be made in accordance with the amendments made by this Act shall be payable to such individual in the form of a lump-sum payment.

(B) RETROACTIVITY.—Any determination of the amount, or of the commencement date, of any annuity, all the requirements for entitlement to which (including separation, but disregarding any application requirement) would have been satisfied before the effective date of this Act if this Act had then been in effect (but would not then otherwise have been satisfied absent this Act) shall be made as if application for such annuity had been submitted as of the earliest date that would have been allowable, after such individual's separation from service, if such amendments had been in effect throughout the periods of service referred to in the first sentence of paragraph (1).

(d) RIGHT TO FILE ON BEHALF OF A DECEDENT.—The regulations under section 4(a) shall include provisions, consistent with the order of precedence set forth in section 8342(c) of title 5, United States Code, under which a survivor of an individual who performed service described in section 8332(b)(18) of such title (as amended by section 1) shall be allowed to submit an application on behalf of and to receive any lump-sum payment that would otherwise have been payable to the decedent under subsection (b) or (c). Such an application shall not be valid unless it is filed within 2 years after the effective date of this Act or 1 year after the date of the decedent's death, whichever is later.

SEC. 3. FUNDING.

(a) LUMP-SUM PAYMENTS.—Any lump-sum payments under section 2 shall be payable out of the Civil Service Retirement and Disability Fund.

(b) UNFUNDED LIABILITY.—Any increase in the unfunded liability of the Civil Service Retirement System attributable to the enactment of this Act shall be financed in accordance with section 8348(f) of title 5, United States Code.

SEC. 4. REGULATIONS AND SPECIAL RULE.

(a) IN GENERAL.—Except as provided in subsection (b), the Director of the Office of Personnel Management, in consultation with the Director of the Central Intelligence Agency, shall prescribe any regulations necessary to carry out this Act. Such regulations shall include provisions under which rules similar to those established pursuant to section 201 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514) shall be applied with respect to any service described in section 8332(b)(18) of title 5, United States Code (as amended by section 1) that was subject to title II of the Social Security Act.

(b) OTHER REGULATIONS.—The Director of the Central Intelligence Agency, in consultation with the Director of the Office of Personnel Management, shall prescribe any regulations which may become necessary, with respect to any retirement system administered by the Director of the Central Intelligence Agency, as a result of the enactment of this Act.

(c) SPECIAL RULE.—For purposes of any application for any benefit which is computed or recomputed taking into account any service described in section 8332(b)(18) of title 5, United States Code (as amended by section 1), section 8345(i)(2) of such title shall be applied by deeming the reference to the date of the ''other event which gives rise to title to the benefit'' to refer to the effective date of this Act, if later than the date of the event that would otherwise apply.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the terms ''unfunded liability'', ''survivor'', and ''survivor annuitant'' have the meanings given under section 8331 of title 5, United States Code; and

(2) the term ''annuity'', as used in subsections (b) and (c) of section 2, includes a survivor annuity.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 652. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce a bill to authorize Federal funding for the rehabilitation of the Benjamin Franklin National Memorial. This memorial, an attraction for some 1 million visitors annually, is truly a national treasure, yet it has come under significant deterioration. The Franklin statue has not been thoroughly cleaned since 1998; there are structural impacts to the statue from changes in temperature and humidity; the lighting and sound systems are obsolete; and the marble walls and stained glass dome are discolored from days when smoking was permitted. The bill that Senator SANTORUM and I are introducing today will help ensure that Federal funding is made available to preserve and protect our Nation's memorial to Benjamin Franklin, America's distinguished scientist, statesman, inventor, and diplomat.

In the 108th Congress, Senator SANTORUM and I introduced similar legislation to authorize this much needed funding and we were pleased that Senator DOMENICI, Senator THOMAS, and their colleagues on the Senate Committee on Energy and Natural Resources favorably reported an amended version of our legislation to the Senate on September 28, 2004. Subsequently, this legislature passed the Senate on October 10, 2004; however, the limited time available prior to adjournment of the 108th Congress precluded passage of this measure by the House of Representatives.

Unlike other national memorials, the Benjamin Franklin National Memorial does not receive an annual allocation of Federal funds to provide for preventative maintenance or other important activities.

The significant burden of maintaining this national memorial has become a challenge to the Franklin Institute Science Museum of Philadelphia, Pennsylvania, custodian of the Benjamin Franklin National Memorial. In 1972, The Institute—a non-profit organization—absorbed the sole responsibility for providing the funds necessary to preserve and maintain the memorial when Public Law 92–511 designated the Memorial Hall at The Franklin Institute Science Museum as the Benjamin Franklin National Memorial. In 1973, a Memorandum of Agreement was executed by the U.S. Department of the Interior and the Franklin Institute that directed the Department to cooperate with the Institute in ''all appropriate and mutually agreeable ways in the preservation and presentation of the Benjamin Franklin National Memorial Hall as a national memorial,'' however, the Department has not provided any Federal funding to the Franklin Institute for those purposes other than $300,000 that Senator SANTORUM and I secured from the ''Save America's Treasures'' program in the Fiscal Year 2000 Interior Appropriations Act to help improve handicap accessibility to the memorial.

The Benjamin Franklin National Memorial at the Franklin Institute serves as the Nation's primary location honoring Franklin's life, legacy, and ideals. As we expect visitors to converge on Philadelphia, Pennsylvania from throughout the world for the Benjamin Franklin Tercentenary Celebration beginning in January 2006, it is important that the Franklin Institute, as custodian of the Memorial, begin a meticulous restoration and enhancement promptly. I urge my colleagues to support this legislation to preserve this national tribute to Benjamin Franklin for years to come.

By Mr. LEAHY (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 654. A bill to prohibit the expulsion, return, or extradition of persons by the United States to countries engaging in torture, and for other purposes; to the Committee on Foreign Relations.

Mr. LEAHY. Mr. President, our Nation has a proud history as the leading advocate of human rights around the world. Throughout this history, we have committed ourselves to numerous international human rights treaties, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The bill that I introduce today will reaffirm our obligations under this Convention and reassure the world that we are a nation committed to the rule of law. I want to thank my cosponsors, Senators DURBIN, KENNEDY, and DODD, for working with me on this legislation, and for their leadership on these issues.

It has been nearly a year since the first horrific images from Abu Ghraib prison appeared in the media, shocking the world and shattering the image of the United States. As the Administration circled the wagons and claimed the abuses were committed by a ''few bad apples,'' new details about the widespread abuse of detainees continued to emerge. I have spoken many times about the need for a comprehensive, independent investigation into the abuse of detainees. I have no doubt that such an investigation would be painful, but it is also a necessary step to moving forward.

Prisoner abuse by U.S. personnel is deeply troubling, but it is only one aspect of a broader and serious problem. While we must ensure that prisoners are treated humanely by our own personnel, we must also prohibit the use of so-called ''extraordinary renditions'' to send people to other countries where they will be subject to torture. Article 3 of the Convention Against Torture states that ''no State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.'' The bill I introduce today, the ''Convention Against Torture Implementation Act,'' will ensure that we honor this commitment.

We have addressed this issue before. Congress implemented Article 3 of the Convention Against Torture in the Foreign Affairs Reform and Restructuring Act of 1998, but this Administration has exploited loopholes in that law to transfer detainees to countries where they are subjected to torture. Attorney General Gonzales recently said that U.S. policy is not to send detainees ''to countries where we believe or we know that they're going to be tortured,'' but he acknowledged that we ''can't fully control'' what other nations do, and added that he does not know whether countries have always complied with their promises. In fact, they have not.

My proposed legislation does not broaden the obligations that we agreed to by ratifying the Convention Against Torture; it simply closes the loopholes in the 1998 law and ensures that we honor our commitment not to outsource torture to other countries.

The case of Maher Arar provides a chilling example of extraordinary rendition, and illustrates why this bill is necessary. Mr. Arar, a Canadian and Syrian citizen, was stopped by immigration officers at John F. Kennedy International Airport in September 2002 as he attempted to change planes on his way home to Canada from Tunisia. He claims that he was interrogated by an FBI agent and a New York City police officer, and that he was denied access to a lawyer. He further claims that he repeatedly told U.S. officials that he feared he would be tortured if deported to Syria. After being detained for nearly two weeks in a Federal detention center in New York, Mr. Arar was transferred by U.S. authorities to Syria and held at the Bush administration's request. Mr. Arar claims that he was physically tortured during the first two weeks of his detention in Syria, and that he was subjected to severe psychological abuse over the following 10 months, including being held in a grave-like cell and being forced to undergo interrogation while hearing the screams of other prisoners.

According to Administration officials, the CIA received diplomatic assurances from Syria that it would not torture Mr. Arar. But those assurances amounted to little more than a wink and a nod. Unnamed intelligence officials were later quoted in the press, saying that Arar confessed under torture in Syria that he had gone to Afghanistan for terrorist training. Syria has a well-documented history of state-sponsored torture. In fact, President Bush stated on November 7, 2003, that Syria has left ''a legacy of torture, oppression, misery, and ruin'' to its people.

Rather than rely on assurances that a country will not torture an individual, we must make our own unbiased determination. We already have the necessary information to do so. Each year, as required by law, the State Department publishes country reports on human rights practices. The most recent report on Syria states that its torture methods include ''administering electrical shocks; pulling out fingernails; forcing objects into the rectum; beating, sometimes while the victim was suspended from the ceiling; hyperextending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a backward-bending chair to asphyxiate the victim or fracture the victim's spine.''

Some will argue that the post-9/11 world is different; that we must use any and all means available to extract information from suspected terrorists. Their argument might be more credible if every person who turned up on a terrorist watch list were, in fact, a terrorist. I cannot say whether Mr. Arar had ties to terrorist groups or not, but we do know that he was never charged with a crime. After enduring months of torture at the hands of the Syrians, he was released and sent back to Canada.

Nor was Mr. Arar's experience an isolated incident. A recent article in The New Yorker titled ''Outsourcing Torture'' provides disturbing details about how the administration embraced the use of rendition after the 9/11 attacks. Several press reports detail the CIA's use of its own Gulfstream V and Boeing 737 jets to secretly transfer detainees to countries around the world, where it is likely that they will be tortured.

The Convention Against Torture Implementation Act addresses the extraordinary rendition problem in a straightforward manner. It requires the State Department to produce annually a list of countries where torture is known to occur. The list would be based on information contained in the State Department's country reports on human rights practices. The bill prohibits the transfer of individuals to any country on this list or to any other country if there are substantial grounds for believing that the person would be tortured. It also provides reasonable exceptions to this prohibition to allow for legal extraditions and removals.

Most importantly, the bill closes the diplomatic assurances loophole. We would no longer accept assurances from governments that we know engage in torture. Our past reliance on diplomatic assurances is blatantly hypocritical. How can our State Department denounce countries for engaging in torture while the CIA secretly transfers detainees to the very same countries for interrogation? The President says he does not condone torture, but transferring detainees to other countries where they will be tortured does not absolve our government of responsibility. By outsourcing torture to these countries, we diminish our own values as a nation and lose our credibility as an advocate of human rights around the world.

Last June, in the aftermath of the Abu Ghraib scandal, the President was asked if he had authorized abusive interrogation techniques. He replied,

''The authorization I issued was that anything we did would conform to U.S. law and would be consistent with international treaty obligations.'' The legislation I introduce today will help us fulfill the President's promise.

The Senate gave its advice and consent to the ratification of the Convention Against Torture more than a decade ago. It is time to honor our commitment and show the world that we will hold ourselves to the same standards that we demand of others.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Convention Against Torture Implementation Act of 2005''.

SEC. 2. PROHIBITION ON CERTAIN TRANSFERS OF PERSONS.

(a) PROHIBITION.—No person in the custody or control of a department, agency, or official of the United States Government, or of any contractor of any such department or agency, shall be expelled, returned, or extradited to another country, whether directly or indirectly, if—

(1) the country is included on the most recent list submitted to Congress by the Secretary of State under section 3; or

(2) there are otherwise substantial grounds for believing that the person would be in danger of being subjected to torture.

(b) EXCEPTIONS.—

(1) WAIVERS.—

(A) AUTHORITY.—The Secretary of State may waive the prohibition in subsection (a)(1) with respect to a country if the Secretary certifies to the appropriate congressional committees that—

(i) the acts of torture that were the basis for including that country on the list have ended; and

(ii) there is in place a mechanism that assures the Secretary in a verifiable manner that a person expelled, returned, or extradited to that country will not be tortured in that country, including, at a minimum, immediate, unfettered, and continuing access, from the point of return, to such person by an independent humanitarian organization.

(B) REPORTS ON WAIVERS.—

(i) REPORTS REQUIRED.—For each person expelled, returned, or extradited under a waiver provided under subparagraph (A), the head of the appropriate government agency making such transfer shall submit to the appropriate congressional committees a report that includes the name and nationality of the person transferred, the date of transfer, the reason for such transfer, and the name of the receiving country.

(ii) FORM.—Each report under this subparagraph shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(2) EXTRADITION OR REMOVAL.—The prohibition in subsection (a)(1) may not be construed to apply to the legal extradition of a person under a bilateral or multilateral extradition treaty or to the legal removal of a person under the immigration laws of the United States if, before such extradition or removal, the person has recourse to a United States court of competent jurisdiction to challenge such extradition or removal on the basis that there are substantial grounds for believing that the person would be in danger of being subjected to torture in the receiving country.

(c) ASSURANCES INSUFFICIENT.—Written or verbal assurances made to the United States by the government of a country that persons in its custody or control will not be tortured are not sufficient for believing that a person is not in danger of being subjected to torture for purposes of subsections (a)(2) and (b)(2), or for meeting the requirement of subsection (b)(1)(A)(ii).

SEC. 3. REPORTS ON COUNTRIES USING TORTURE.

Not later than 30 days after the effective date of this Act, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report listing each country where torture is known to be used. The list shall be compiled on the basis of the information contained in the most recent annual report of the Secretary of State submitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate under section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

SEC. 4. REGULATIONS.

(a) INTERIM REGULATIONS.—Not later than 60 days after the effective date of this Act, the heads of the appropriate government agencies shall prescribe interim regulations for the purpose of carrying out this Act and implementing the obligations of the United States under Article 3 of the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture, and consistent with the provisions of this Act.

(b) FINAL REGULATIONS.—Not later than 180 days after interim regulations are prescribed under subsection (a), and following a period of notice and opportunity for public comment, the heads of the appropriate government agencies shall prescribe final regulations for the purposes described in subsection (a).

SEC. 5. SAVINGS CLAUSE.

Nothing in this Act shall be construed to eliminate, limit, or constrain in any way the obligations of the United States or the rights of any individual under the Convention Against Torture or any other applicable law.

SEC. 6. REPEAL OF SUPERSEDED AUTHORITY.

Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277; 8 U.S.C. 1231 note) is repealed. Regulations promulgated under such section that are in effect on the date this Act becomes effective shall remain in effect until the heads of the appropriate government agencies issue interim regulations under section 4(a).

SEC. 7. DEFINITIONS.

(a) DEFINED TERMS.—In this Act:

(1) APPROPRIATE GOVERNMENT AGENCIES.—The term ''appropriate government agencies'' means—

(A) the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); and

(B) elements of the Department of State, the Department of Defense, the Department of Homeland Security, the Department of Justice, the United States Secret Service, the United States Marshals Service, and any other Federal law enforcement, national security, intelligence, or homeland security agency that takes or assumes custody or control of persons or transports persons in its custody or control outside the United States, other than those elements listed or designated as elements of the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committees on Armed Services, Homeland Security and Government Affairs, Judiciary, Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Homeland Security, Judiciary, International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) CONVENTION AGAINST TORTURE.—The term ''Convention Against Torture'' means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force on June 26, 1987, signed by the United States on April 18, 1988, and ratified by the United States on October 21, 1994 (T. Doc. 100–20).

(4) EXPELLED PERSON.—A person who is expelled is a person who is involuntarily transferred from the territory of any country, or a port of entry thereto, to the territory of another country, or a port of entry thereto.

(5) EXTRADITED PERSON.—A person who is extradited is an accused person who, in accordance with chapter 209 of title 18, United States Code, is surrendered or delivered to another country with jurisdiction to try and punish the person.

(6) RETURNED PERSON.—A person who is returned is a person who is transferred from the territory of any country, or a port of entry thereto, to the territory of another country of which the person is a national or where the person has previously resided, or a port of entry thereto.

(b) SAME TERMS AS IN THE CONVENTION AGAINST TORTURE.—Except as otherwise provided, the terms used in this Act have the meanings given those terms in the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the date that is 30 days after the date of the enactment of this Act.

SEC. 9. CLASSIFICATION IN UNITED STATES CODE.

This Act shall be classified to the United States Code as a new chapter of title 50, United States Code.

CONVENTION AGAINST TORTURE IMPLEMENTATION ACT OF 2005 SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. The Convention Against Torture Implementation Act of 2005.

Sec. 2. Prohibition on Certain Transfers of Persons. This section implements Article 3 of the Convention Against Torture, which prohibits expelling, returning, or extraditing persons to countries where they are in danger of being subjected to torture. Subsection (a) prohibits the transfer of a person in the custody or control of the United States government to a country included on a list generated by the State Department, as required by Section 3 of this Act, or to countries where there are substantial grounds for believing that the person would be in danger of being subjected to torture. Subsection (b) allows exceptions to the prohibition if the Secretary of State waives the prohibition or if the transfer is done under an extradition treaty or as a legal removal under United States immigration laws. Agencies that

transfer a detainee under the waiver exception must submit a report of the transfer to appropriate congressional committees. Subsection (c) states that assurances made to the United States by another government that persons in its custody will not be tortured are not sufficient for the United States to conclude that a person will not be subjected to torture.

Sec. 3. Reports on Countries Using Torture. This section requires the Secretary of State, on an annual basis, to compile a list of countries where torture is known to be used. The United States is prohibited from transferring persons to the countries on this list, except in accordance with the exceptions contained in section 2. The list shall be compiled based on information contained in the most recent State Department country reports on human rights practices, which the Department submits annually in accordance with section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

Sec. 4. Regulations. This section requires appropriate government agencies (as defined in section 7) to prescribe regulations in accordance with this Act. Interim regulations must be prescribed within 60 days of the effective date of the Act. Final regulations must be prescribed, through notice and comment rulemaking, not more than 180 days thereafter.

Sec. 5. Savings Clause. This section ensures that the Act does not eliminate, limit, or constrain the obligations of the United States or the rights of any individual under the Convention Against Torture or any other applicable law.

Sec. 6. Repeal of Superseded Authority. This section repeals section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277; 8 U.S.C. 1231 note). This law also implemented Article 3 of the Convention Against Torture, but lacked specific guidance for agencies and allowed the United States to rely on diplomatic assurances that a government would not torture a person transferred to its custody. This section also requires agency regulations promulgated under section 2242 to remain in effect until the appropriate government agencies issue new regulations in accordance with section 4 of this Act.

Sec. 7. Definitions. This section defines ''Appropriate Government Agencies,'' ''Appropriate Congressional Committees,'' ''Expelled Person,'' ''Extradited Person,'' ''Returned Person,'' and ''Convention Against Torture.'' It also states that terms used in the Act, unless otherwise provided, have the meanings given to those terms in the Convention Against Torture.

Sec. 8. Effective Date. Makes the Act effective 30 days after its enactment.

Sec. 9. Classification in United States Code. This section requires the Act to be classified as a new chapter of title 50 in the United States Code. The superseded authority was classified as a note in title 8 in the United States Code. Given the scope and applicability of the Act, it is more accurate to classify it in the War and National Defense title than in the Aliens and Nationality title.

Mr. KENNEDY. Mr. President, the entire world continues to wait for signs that the administration takes seriously its moral and legal responsibilities to eliminate torture and abuse. It is long past time for the administration to give the American people and the world an ironclad assurance that these shameful tactics are no longer being used in any prison or detention facility under American control and that we are not outsourcing our torture to regimes well known for using them.

I strongly support the legislation that Senator LEAHY has introduced to deal with this urgent problem and to see that our Nation is not farming out abusive interrogations to other countries. The bill makes crystal clear that we can't torture by proxy.

Abhorrence to torture is a fundamental value. Our attitude toward torture speaks volumes about our national conscience, our dedication to the rule of law, and our essential ideals. 9/11 is no excuse for abandoning our ideals.

The line separating right from wrong must clearly exclude the reprehensible practice called extraordinary rendition, the ridiculous code word for torture by proxy. Article 3 of the Treaty Against Torture, which the United States has ratified, provides: ''No State Party shall expel, return, or extradite a person to another State where there are substantial grounds for believing he would be in danger of being subjected to torture.'' The secretive U.S. practice of rendition is a violation of international law because it involves detaining prisoners without a shred of due process and delivering them for interrogation into the hands of countries known to commit torture. As one commentator noted: ''In terms of bad behavior, it stands side by side with contract killings.''

Ask Maher Arar. In the fall of 2002, Arar, a Canadian citizen, was returning to Montreal from a family visit in Tunisia and he made a stopover at Kennedy Airport in New York City. Acting in part on flawed intelligence from Canadian officials, U.S. Immigration officials seized Mr. Arar at the airport. He was not charged with a crime, or given a chance to talk with a lawyer. Instead, he was held in Brooklyn and interrogated for days by U.S. law enforcement authorities.

When the interrogation failed to produce incriminating information, Mr. Arar was flown to Jordan and handed over to Jordanian authorities. He was chained, blindfolded, and beaten in a van that transported him to the Syrian border. In Syria, he was placed in a small, dark cell—three feet by six feet, like a grave—and was held there for almost a year. He was slapped, beaten, and whipped on his palms, wrists, and back with an electric cable. He begged them to stop. He heard other prisoners screaming as they were tortured. He signed any confessions he was told to sign.

Mr. Arar was released in October 2003. Syrian officials told reporters that their investigators found no link between Mr. Arar and al-Qaida. His confession turned out to be worthless and his suffering was pointless. Mr. Arar is now home in Canada.

How can any of us stand idly by knowing that this country condoned and facilitated such brutality?

Tragically, Mr. Arar is not the only victim. On March 6, 60 Minutes aired a report on rendition. On the program, Michael Scheuer, a recently retired CIA official who created its rendition program, admitted that he would ''have to assume'' that suspects the U.S. sends to Egypt are tortured. ''It's very convenient,'' he said. ''It's finding someone else to do your dirty work.''

The Defense Department has attempted to justify this tactic. On June 25, 2003, Defense Department General Counsel William Haynes wrote to Senator LEAHY, stating that whenever the U.S. transfers an individual to another country, ''United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country. We can assure you that the United States would take steps to investigate credible allegations of torture and take appropriate action if there were reason to believe that those assurances were not being honored.''

Mr. Haynes' ''assurances,'' are difficult to accept. The State Department's annual human rights report, released last month, criticized numerous countries for a range of interrogation practices it labeled as torture. The State Department identified Syria, Egypt, and Saudi Arabia, among others, as countries practicing torture. Press reports make clear that since 9/11, the U.S. has flown 100–150 suspects to countries such as these. The State Department condemns Syria for torturing its prisoners, but Mr. Haynes blindly relies on Syria's promise that the prisoners we send there will be treated humanely.

Recent press reports also suggest that the assurances of humane treatment sought by the CIA are worth very little. According to today's Washington Post, ''one government official who visited several foreign prisons where suspects were rendered by the CIA said . . . 'It's widely understood that the interrogation practices that would be illegal in the U.S. are being used.' '' The official also said, ''they say they are not abusing them . . . but we all know they do.''

According to the Post, an Arab diplomat, whose country is actively engaged in counterterrorism alongside the CIA said it was unrealistic to believe the CIA really wants to follow up on assurances. He said: ''It would be stupid to keep track of them because then you would know what's going on.'' He said, ''it's like don't ask don't tell.''

So, it seems that we are not fooling anybody but the American public.

We are a Nation of laws, not hypocrites. Our country is strong and our constitutional system has endured because it permits us to do great things and still ensure that we treat people fairly and humanely. We are not supposed to ''disappear'' people here.

Yet, that is exactly what rendition and the related tactic of ''ghost detainees'' amounts to, making people vanish into a shadowy world of secret abuse. In his report on the abuses at Abu Ghraib prison, MG. Antonio Taguba

wrote that prisoners had not been registered as required by Army regulations and they were being moved around to avoid detection by the Red Cross. General Taguba called the practice ''deceptive, contrary to Army doctrine, and in violation of international law.'' Last September, Army investigators told the Senate Armed Services Committee that as many as 100 detainees at Abu Ghraib had been hidden from the Red Cross at the CIA's direction.

Last month, the Associated Press reported that one of the ''ghost detainees'' held at Abu Ghraib, Manadel al-Jamadi, died in November 2003 under CIA interrogation. He had been suspended by his wrists, with his hands cuffed behind his back. According to an Army guard who was asked by the interrogator to adjust al-Jamadi's position, blood gushed from his mouth ''as if a faucet had been turned on'' after he was released from his shackles.

Behavior like that forces us all to ask, ''what has America become?''

The issue shows no signs of abating. Article 49 of the Fourth Geneva Convention states that transfers of detainees from occupied territory to any other country ''are prohibited, regardless of their motive.'' Violations of the Article constitute ''grave breaches'' of the Treaty and qualify as ''war crimes'' under Federal law. Nevertheless, a Justice Department memorandum in March, 2004 re-interpreted the Treaty to allow the CIA to remove prisoners from Iraq for the purpose of ''facilitating interrogation.'' According to press reports, the CIA used this ''Goldsmith Memorandum'' as justification to transport ''as many as a dozen detainees'' out of Iraq. The legal analysis in the memorandum is an embarrassment. Yet it appears to have provided the legal justification for the CIA to commit war crimes.

The New York Times recently reported that the U.S. plans to transfer as many as half the 550 detainees held at Guantanamo Bay to prisons in other countries. This week, a Federal judge blocked the government from transferring 13 citizens of Yemen until a hearing can be held on the propriety of the move. Lawyers for the detainees expressed concern that the prisoners would be delivered into the hands of torture.

Even worse, last week Attorney General Gonzales defended the practice of rendition, despite admitting that he ''can't fully control'' what other nations do and that he doesn't know whether countries have always complied with their promises.

Congress can't allow these shameful tactics to continue. Senator LEAHY's bill is designed to prevent them. It states that no person in the custody or control of the United States can be sent to another country on the State Department list of countries that commit torture. Nor, may any person be sent to a country, even if it is not on the State Department list, where there are grounds to believe the person would be in danger of being tortured. The bill states that mere diplomatic assurances that detainees will be treated humanely are not sufficient to permit a detainee's transfer. Instead, in certain circumstances, the act permits delivery of the detainee where there is an actual mechanism to verify that the person will not be tortured, such as by allowing unfettered access to the detainee by humanitarian organizations.

The Bush administration's has clearly condoned the use of torture and abuse by our own government, as well as handing prisoners over to other countries for the same purpose. Officials have approved and used interrogation techniques that include feigning suffocation, feigning drowning, ''stress positions,'' sleep deprivation, and the use of unmuzzled dogs. According to one report, ''The methods employed by the CIA are so severe that senior officials of the Federal Bureau of Investigation have directed its agents to stay out of many of the interviews of the high-level detainees . . . ''because the FBI fears that the techniques could subject their agents to criminal lawsuits.

The anti-rendition bill offered today is a way to start addressing the problem. It deserves to pass as soon as possible. Torture and other abuses of prisoners in Iraq, Afghanistan, and Guantanamo have done immense damage to America's standing in the world and has clearly made the war on terrorism harder to win. We need to repair that damage and re-claim our national commitment to fairness and decency.

As Edmund Burke said, ''The only thing necessary for the triumph of evil is for good men to do nothing.'' We in Congress have it in our power to prevent the triumph of an evil practice. Knowing what we now know, the Senate cannot simply look away and do nothing. I urge my colleagues to support us in ending these despicable abuses.

By Mr. ENSIGN (for himself and Ms. LANDRIEU):

S. 657. A bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services; to the Committee on Finance.

Mr. ENSIGN. Mr. President, today I introduced a bill that would expand access to speech-language pathology care.

Speech-language pathology, or speech therapy, includes services for patients with speech, hearing and language disorders, which result in communication disabilities. Speech therapy also includes the diagnosis and treatment of swallowing disorders, regardless of the presence of communications disability. Communications disabilities most frequently affect patients who suffer from a stroke, tumor, head injury, or have been diagnosed with Parkinson's disease, amyotrophic lateral sclerosis (ALS) , or other neuromuscular diseases.

As a result of a legislative anomaly, patients cannot receive Medicare coverage for speech-language pathology care in a private practice setting. Under the Medicare program, the same patient is able to receive such care in a hospital, skilled nursing facility, or rehabilitation facility. This bill would not create a new benefit. Rather, it would provide a technical correction to a section of Medicare statute that originated more than 30 years ago. Under current law, physical therapy and occupational therapy care can be received by patients in the private practice setting.

In 1972, speech-language pathology services were added to the Medicare statute under the physical therapy definition section. 14 years later, occupational therapy was defined under a separate section. Unlike speech-language pathology services, occupational therapy services were not incorporated within the physical therapy definition. As a result, a patient can receive both physical and occupational therapy care in an independent practice setting. The legislation I am introducing today would enable patients to likewise receive speech-language therapy services in private practice settings.

Without this legislative fix, beneficiaries may confront situations in which they either do not have access to a Medicare-covered setting or do not meet the requirements to receive care from other settings. This can be especially problematic in rural communities with fewer hospitals, skilled nursing facilities, and rehabilitation facilities.

For example, consider an elderly patient who is discharged from a hospital, but requires follow-up physical therapy and speech-language pathology care. The patient would be able to obtain necessary physical therapy care in an independent practice setting, but would not be able to receive necessary speech-language pathology care in the same setting. The patient would have to see the necessary speech-language pathology care in another Medicare setting, possibly having to travel farther distances to receive such care or not receive it all.

Essentially, the legislation I am introducing today would ensure that patients have access to speech-language pathology services, particularly in rural areas. I urge my colleagues to join me in supporting this commonsense legislation.

This legislation compliments the measure I introduced last month, called the Medicare Access to Rehabilitation Services Act (S. 438). Both bills ensure access to needed therapy care within the Medicare program. I am committed to working toward their enactment and believe that they will help Medicare beneficiaries obtain the quality health care that they deserve.

By Mr. BROWNBACK (for himself, Ms. LANDRIEU, Mr. ALLARD, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DEWINE, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. INHOFE, Mr. KYL, Mr. MARTINEZ, Ms. MURKOWSKI, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, and Mr. TALENT):

S. 658. A bill to amend the Public Health Service Act to prohibit human cloning; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise to speak on the Brownback-Landrieu Human Cloning Prohibition Act, which we introduce today.

The Brownback-Landrieu Human Cloning Prohibition Act remains the only effective ban on human cloning.

This legislation has passed the U.S. House of Representatives twice by large margins. This bill would also bring the U.S. into conformity with the recent vote at the United Nations, where the General Assembly called on all member states ''to prohibit all forms of human cloning'' by a strong 84 to 34 margin.

President Bush has also spoken eloquently on the Brownback-Landrieu Human Cloning Prohibition Act, when he ''wholeheartedly'' endorsed the legislation.

The President said: ''Human cloning is deeply troubling to me, and to most Americans. Life is a creation, not a commodity.

''Our children are gifts to be loved and protected, not products to be designed and manufactured. Allowing cloning would be taking a significant step toward a society in which human beings are grown for spare body parts, and children are engineered to custom specifications; and that's not acceptable. . . .

''I strongly support a comprehensive law against all human cloning. And I endorse the bill wholeheartedly endorse the bill—sponsored by Senator BROWNBACK and Senator MARY LANDRIEU.''

The President could hardly have been clearer.

We should take a stand against those that would turn young human beings into commodities and spare parts. We should not use human life for research purposes.

The legislation introduced by Sen. LANDRIEU and myself, along with over one quarter of the Senate, answers that human life should not be used for research purposes.

Let there be no doubt. Science affirms that the young human, at his or her earliest moments of life, is a human. It is wrong to treat another person as a piece of property that can be bought and sold, created and destroyed, all at the will of those in power.

The issue of human cloning—and specifically how we treat the young human—will determine the kind of future we will give to our children and grandchildren.

The essential question is whether or not we will allow human beings to be produced, to preordained specifications, for their eventual implantation or destruction, depending upon the intentions of the technicians who created them.

Will we create life simply to destroy it?

I firmly believe that human life should be cherished and that human dignity should be protected.

I also firmly believe that ethically-sound research should proceed in the search for cures. The legislation that we introduce today takes a very thoughtful approach and is careful not to ban or interfere with gene therapy, IVF practices, or DNA, cell or tissue cloning—other than with cloned embryos.

Now, some of our colleagues will tell you that they oppose 'reproductive cloning,' but then turn around and call for 'therapeutic cloning' or 'SCNT.' Whether intentional or not, to argue that there are different types of human cloning creates a distinction that simply does not exist.

All human cloning is 'reproductive.' The question is simply: What do you do with the young, cloned human? Do you implant it and bring it to birth—like the sheep Dolly—or do you research on and kill the young human being, as advocates of so-called 'therapeutic' cloning would have us do?

Any other so-called human cloning bans, outside of the Brownback-Landrieu Human Cloning Prohibition Act, are not enforceable. Once the young human has been cloned, you cannot distinguish it from any other human embryo produced by IVF or embodied sexual intercourse.

If so-called 'therapeutic' human cloning proceeds—and there are no laws in the U.S. against it—one of these human clones will be implanted, and there is nothing we can do to stop human cloning once we reach this point.

Even if we detected a clonal human pregnancy, nothing could be done about it. Any remedies or punishments would be highly unpopular and unenforceable.

As I have already stated, over a quarter of all U.S. Senators have agreed to be original cosponsors of this bill, and it is our intention to press for a clean vote in the Senate during the 109th Congress.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. GRASSLEY, and Mrs. LINCOLN):

S. 661. A bill to amend the Internal Revenue Code of 1986 to provide for the modernization of the United States Tax Court, and for other purposes, to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Tax Court Modernization Act. I am joined in this legislation by the Chairman and Ranking Democrat of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, and my colleague Senator LINCOLN.

The United States Tax Court plays an important role in our tax system. However, it has been years since Congress has taken a good hard look at the Tax Court. This bipartisan piece of legislation will improve this Court in a number of ways, and I would like to take a moment to summarize some of its provisions.

First, the TCMA would make minor changes in the Tax Court's jurisdiction. These are small changes that will have a big impact on the Court's efficiency. For example, the bill would allow the Tax Court to hire employees on its own, just as other courts do. Currently, the Tax Court is forced to hire through the Executive Branch's Office of Personnel Management, entangling the executive power with the judicial power. Restoring the constitutional separation of powers in the hiring process will increase the independence of the Tax Court.

Second, the TCMA would improve the way that Tax Court judges receive retirement benefits and other non-salary benefits. I believe that Tax Court judges should be treated the same way that bankruptcy, Court of Federal Claims, and Article III judges are treated when it comes to fringe benefits.

Tax Court judges are often not provided with the same benefits as similarly appointed Article I and Article III judges. For example, Congress allows Article III, bankruptcy, and Court of Federal Claims judges to participate in the Thrift Savings Plan in addition to the Civil Service Retirement System, while Tax Court judges are ineligible to participate in this program. These disparities in the treatment of our Tax Court judges affect the Court's ability to attract and retain seasoned judges, as well as talented employees.

This legislation is non-controversial and is the result of many years of work. The Finance Committee passed the bill three separate times during the 108th Congress, but it unfortunately was not included in a vehicle that made it to enactment. Hopefully, we will be able to get these provisions to the President's desk this year.

I have spent many years observing the Federal judiciary. I have spent many years trying to improve the Judicial Branch of our government and to make it the very finest court system the world has ever known. I look forward to working with my colleagues on the Senate Finance Committee on this important piece of legislation. I urge my colleagues, both on the Finance Committee and in the Senate as a whole, to support this legislation.

I ask unanimous consent to print in the RECORD a summary of the provisions of the U.S. Tax Court Modernization Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. TAX COURT MODERNIZATION ACT
SUMMARY OF PROVISIONS

Jurisdiction of Tax Court over collection due process cases. Currently, if a taxpayer's underlying tax liability does not relate to income taxes or a type of tax over which the Tax Court normally has deficiency jurisdiction, there is no opportunity for Tax Court review and the taxpayer must file in a District Court to obtain review. This provision consolidates judicial review of collection due process activity in the Tax Court.

Authority for special trial judges to hear and decide certain employment status cases. This provision clarifies that the Tax Court may authorize its special trial judges to enter decisions in employment status cases that are subject to small case proceedings under section 7436(c).

Confirmation of authority of Tax Court to apply doctrine of equitable recoupment. The common-law principle of equitable recoupment permits a party to assert an otherwise time-barred claim to reduce or defeat an opponent's claim if both claims arise from the same transaction. This provision confirms statutorily that the Tax Court may apply equitable recoupment principles to the same extent as District Courts and the Court of Federal Claims.

Tax Court filing fee in all cases commenced by filing petition. This provision clarifies, in keeping with current Tax Court procedure, that the Tax Court is authorized to impose a $60 filing fee for all cases commenced by petition. The proposal would eliminate the need to amend section 7451 each time the Tax Court is granted new jurisdiction.

Amendments to appoint employees. Currently, the Tax Court has to go to the executive branch, the Office of Personnel Management, to change a position. It is inappropriate to require the Tax Court to seek permission from the executive since that branch is a party (Commissioner of Internal Revenue) before the Tax Court. This change would allow the Tax Court to be independent in fact and perception from the Executive Branch while ensuring that basic employee rights, protections, and remedies are retained or required in an appropriate way (e.g., whistleblower protection, civil rights, merit system principles, etc.).

Expanded use of Tax Court practice fee for pro se taxpayers. The Tax Court is authorized to charge practitioners a fee of up to $30 per year and to use these fees to pursue disciplinary matters. The provision expands use of these fees to provide services to pro se taxpayers. Fees could be used for education programs for pro se taxpayers.

Annuities for survivors of Tax Court judges who are assassinated. The reality is that many people do not like to pay taxes. There is as much risk of a Tax Court judge being assassinated as any other Federal judge. The proposal would conform the treatment of Tax Court judges to District Court judges.

Cost-of-living adjustments for Tax Court judicial survivor annuities. All Federal employees have this provision except the Tax Court. Survivors of Tax Court judges are subject to an obsolete method of indexing.

Life insurance coverage for Tax Court judges. This simply codifies current Office of Personnel Management interpretation, as was previously done for District Court judges.

Cost of life insurance coverage for Tax Court judges age 65 or over. Congress established the Tax Court in 1969 and required that Tax Court judges receive the same compensation as District Court judges. The District Court judges were given this benefit to ensure that there was no diminution of their compensation (as required by the Constitution). This provision is in keeping with the original intent of Congress.

Modification of timing of lump-sum payment of judge's accrued annual leave. District Court judges are allowed to receive a lump-sum payment due to the life-time tenure of Article III judges. Tax Court judges, while they have a 15 year term, effectively have a life-time term because they are always subject to recall.

Participation of Tax Court judges in the Thrift Savings Plan. The proposal would allow Tax Court judges to participate in Thrift Savings Plan. Currently, only 19 federal government employees are left out of the Thrift Savings Plan (i.e., Tax Court judges).

Exemption of teaching compensation of retired judges for limitation on outside earned income. After retirement, Tax Court judges should have the same ability to teach as District Court judges.

General provisions relating to magistrate judges of the Tax Court. ''Magistrate'' is more recognizable to the American public because it is the term used by Article III courts. The provision changes the term ''Special Trial Judge'' to ''Magistrate Judge of the United States Tax Court'' and provides for alignment of term of office and removal applicable to District Court magistrate judges.

Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court. This section gives Magistrates/Special Trial Judges the same advantages as Tax Court judges, thus ensuring a greater pool of participants in the fund.

Retirement and annuity program for magistrate judges. A retirement and annuity program more aligned with District Court Magistrates and the Tax Court judges is key for attracting and retaining qualified judges.

Incumbent magistrate judges of the Tax Court. The provision provides transition rules similar to those given to the District Court magistrate judges.

Provisions for recall. Article III judges are ''self-recalling'' (i.e., they decide for themselves whether they are recalled). In contrast, Tax Court judges are subject mandatory recall by the Chief Judge. These provisions authorize the recall in a manner similar to those now applicable to the regular judges of the Court.

Mr. BAUCUS. Mr. President, I rise today to support the United States Tax Court Modernization Act. I am pleased to be an original cosponsor of this important legislation along with Senators HATCH, GRASSLEY and LINCOLN.

In 1969, Congress elevated the U.S. Tax Court as a Federal court of record under Article I of the Constitution of the United States. Congress created the Tax Court to provide a judicial forum in which affected persons could dispute tax deficiencies determined by the Commissioner of the Internal Revenue Service prior to payment of the disputed amounts. That means that the Tax Court's jurisdictional requirements are, in part, a recognition that lower and middle income taxpayers cannot necessarily pay the tax deficiency before taking their dispute to court.

Congress also closely linked the legislation governing the Tax Court with the laws governing the Article III District Courts. Unfortunately, the Congress did not include the Tax Court in the changes made for Article III courts.

This legislation is designed to restore parity between the Tax Court and Article III courts, and to modernize their personnel and pension systems.

I thank Senator HATCH for sponsoring the legislation. I also want to thank former Senator Breaux, who sponsored the legislation in the last Congress and who was a strong advocate for the Tax Court as well as this package of modernization provisions.

This modernization package is noncontroversial and long overdue. In the 108th Congress, the Finance Committee passed the Tax Court legislation three times: as a stand alone bill, as part of the National Employee Savings and Trust Equity Guarantee Act, and as part of the Tax Administration Good Government Act.

The Finance Committee intends to mark-up the United States Tax Court Modernization Act next month. I fully expect the Committee to once again unanimously pass the legislation. I also hope that, soon after Committee action, Majority Leader FRIST and Minority Leader REID will bring the United States Tax Court Modernization Act to the floor for swift passage.

The Finance Committee and the House Ways & Means Committee fought to retain jurisdiction over the Tax Court as an Article I, rather than an Article III court. The Committees recognized the benefit to the American taxpayer of having a court composed of technical tax law experts. History has proven the wisdom of this decision. The Tax Court is composed of dedicated, talented, nonpartisan tax experts. Their commitment to public service is noble. We should recognize the commitment of our Tax Court judges by acting upon the responsibility that the Members before us, our predecessors on the Finance Committee and the House Ways and Means Committee, fought to retain by ensuring that the Tax Court modernization provisions become law during the 109th Congress.

By Ms. COLLINS (for herself, Mr. CARPER, and Mr. VOINOVICH):

S. 662. A bill to reform the postal laws of the United States; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today with my friend and colleague, Senator CARPER, to introduce the Postal Accountability and Enhancement Act of 2005, a bill designed to help the 225-year-old Postal Service meet the challenges of the 21st Century. This legislation represents the culmination of a process that began in the summer of 2002 when I introduced a bill to establish a Presidential Commission charged with examining the problems the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service could implement.

I originally introduced the Postal Accountability and Enhancement Act last

May. In June of 2004, the bill was unanimously reported out of the the Homeland Security and Governmental Affairs Committee. That bill, S. 2468, had the strong endorsements of the National Rural Letter Carriers Association, the National Association of Letter Carriers, the National Association of Postmasters of the United States, and the Coalition for a 21st Century Postal Service—which represents thousands of the major mailers, employee groups, small businesses, and other users of the mail. It also had the strong bi-partisan support of twenty-two members of the United States Senate. Unfortunately, due to a variety of factors, my efforts to have the bill considered before the full Senate were stalled.

Since last Fall, Administration representatives have become actively engaged in postal reform efforts, and have given me their commitment to working with Congress to ensure passage of a reform bill this year. I have every expectation that this will be the year comprehensive postal reform legislation is signed into law.

It has long been acknowledged that the financial and operational problems confronting the Postal Service are serious. At present, the Postal Service has more than $90 billion in unfunded liabilities and obligations, which include $1.8 billion in debt to the U.S. Treasury, $7.6 billion for Workers' Compensation claims, $3.5 billion for retirement costs, and as much as $47 billion to cover retiree health care costs. The Government Accountability Office's Comptroller General, David Walker, has pointed to the urgent need for ''fundamental reforms to minimize the risk of a significant taxpayer bailout or dramatic postal rate increases.'' The Postal Service has been on GAO's ''High-Risk'' List since April of 2001. The Postal Service is at risk of a ''death spiral'' of decreasing volume and increasing rates that lead to further decreases in volume.

In December of 2003, President Bush announced the creation of a bipartisan commission charged with identifying the operational, structural, and financial challenges facing the U.S. Postal Service. The President charged this commission with examining all significant aspects of the Postal Service with the goal of recommending legislative and administrative reforms to ensure its long-term viability.

The President's Commission conducted seven public hearings across the country at which they heard from numerous witnesses. On July 31, 2003, the Commission released its final report, making 35 legislative and administrative recommendations for the reform of the Postal Service.

As I read through the Commission's report, I was struck by what I considered the Commission's wake up call to Congress: its statement that ''an incremental approach to Postal Service reform will yield too little, too late given the enterprise's bleak fiscal outlook, the depth of current debt and unfunded obligations, the downward trend in First-Class mail volumes and the limited potential of its legacy postal network that was built for a bygone era.'' That is a very strong statement, and one that challenged both the Postal Service and Congress to embrace far-reaching reforms.

To the relief of many, including myself, the Commission did not recommend privatization of the Postal Service. Instead, the Commission sought to find a way for the Postal Service to do, as Co-Chair Jim Johnson described to me, ''an overwhelmingly better job under the same general structure.''

The Postal Service plays a vital role in our economy. The Service itself employs more than 750,000 career employees. Less well known is the fact that it is also the linchpin of a $900-billion mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, paper manufacturing, and financial services. The health of the Postal Service is essential to the vitality of thousands of companies and the millions that they employ.

One of the greatest challenges for the Postal Service is the decrease in mail volume as business communications, bills and payments move more and more to the Internet. The Postal Service has experienced declining volumes of First-Class mail for three straight years. This is highly significant, given that First-Class mail accounts for 48 percent of total mail volume, and the revenue it generates pays for more than two-thirds of the Postal Service's institutional costs.

The Postal Service also faces the difficult task of trying to cut costs from its nationwide infrastructure and transportation network. These costs are difficult to cut. Even though volumes may be decreasing, carriers must still deliver six days a week to more than 139 million addresses.

As Chairman of the Committee on Homeland Security and Governmental Affairs, I held a series of eight hearings, including a joint hearing with the House, during which we reviewed the recommendations of the President's Commission. The bill Senator CARPER and I introduce today reflects what the Committee learned from dozens of witnesses.

First and foremost, the Collins-Carper bill preserves the basic features of universal service—affordable rates, frequent delivery, and convenient community access to retail postal services. As a Senator representing a large, rural State, I want to ensure that my constituents living in the northern woods, or on the islands, or in our many rural small towns have the same access to postal services as the people of our cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at rates charged by the Postal Service.

The Collins-Carper bill allows the Postal Service to maintain its current mail monopoly, and retain its sole access to customer mailboxes. It grants the Postal Service Board of Governors the authority to set rates for competitive products like Express Mail and Parcel Post, as long as these prices do not result in cross subsidy from market-dominant products. As a safeguard, our bill establishes a 30 day prior review period during which the proposed rate changes shall be reviewed by the Postal Regulatory Commission.

It replaces the current lengthy and litigious rate-setting process with a rate cap-based structure for market-dominant products such as First-Class Mail, periodicals and library mail. This would allow the Postal Service to react more quickly to changes in the mailing industry. The rate caps would be linked to the Consumer Price Index. The goal would be to make rate increases more predictable and less frequent and to provide incentives for the Postal Service to operate efficiently. Price changes for market-dominant products would be subject to a 45 day prior review period by the Postal Regulatory Commission.

Our bill would introduce new safeguards against unfair competition by the Postal Service in competitive markets. Subsidization of competitive products by market-dominant products would be expressly forbidden, and an equitable allocation of institutional costs to competitive products would be required.

The President's Commission recommended that the regulator be granted the authority to make changes to the Postal Service's universal service obligation and monopoly. The vast majority of the postal community, however, shared my belief that these are important policy determinations that should be retained by Congress. The Collins-Carper bill keeps those public policy decisions in congressional hands.

The existing Postal Rate Commission would be transformed into the Postal Regulatory Commission with greatly enhanced authority. Under current law, the Rate Commission has very narrow authority. We wanted to ensure that the Postal Service management has both greater latitude and stronger oversight. Among other things, the Postal Regulatory Commission will have the authority to regulate rates for non-competitive products and services; ensure financial transparency; establish limits on the accumulation of retained earnings by the Postal Service; obtain information from the Postal Service, if need be, through the use of new subpoena power; and review and act on complaints filed by those who believe the Postal Service has exceeded its authority. Members of the Postal

Regulatory Board will be selected solely on the basis of their demonstrated experience and professional standing. Senate confirmation of all Board Members will be required.

To meet the Presidential Commission's call for increased financial transparency, the Collins-Carper bill will require the Postal Service to file with the Postal Regulatory Commission certain Securities and Exchange Commission financial disclosure forms, along with detailed annual reports on the status of the Postal Service's pension and postretirement health obligations.

The Governmental Affairs Committee dedicated two hearings to the examination of the Commission's workforce-related recommendations. The Postal Service is a highly labor intensive organization, using $3 out of every $4 to pay the wages and benefits of its employees. Their workforce is comprised of more than 700,000 dedicated letter carriers, clerks, mail handlers, postmasters, and others, many of whom place great value on their right to collectively bargain. Our bill reaffirms that right. This bill only makes changes to the bargaining process that have been agreed to by both the Postal Service and the four major unions. We replace the rarely used fact-finding process with mediation, and shorten statutory deadlines for certain phases of the bargaining process.

Additionally, the Collins-Carper bill corrects what I believe to be an anomaly in the federal workers' compensation law that results in high costs for the Postal Service. Under the Federal Employees Compensation Act (FECA), federal employees with dependents are eligible for 75 percent of their take-home pay, tax free, plus cost of living allowances. In addition, there is no maximum dollar cap on FECA payments. As a result, employees often opt not to retire, staying on the more generous workers' compensation program permanently.

According to a March 2003 audit issued by the Postal Service's Office of Inspector General, the Postal Service's workers' compensation rolls include 81 cases that originated 40 to 50 years ago, with the oldest recipient being 102 years old. The IG's office found 778 cases that originated 30 to 40 years ago; and 1,189 cases that originated 20 to 29 years ago.

The Collins-Carper bill works to protect the financial resources of the Postal Service by converting workers' compensation benefits for total or partial disability to a retirement annuity when the affected employee reaches 65 years of age. This change would reflect the fact that disabled postal employees would likely retire at some point were they not receiving workers' compensation. I would like to note that the average postal employee retires far earlier than age 65, so this is still a generous program. It is important to point out that the Postal Service has reduced their workplace injury rate by twenty-eight percent over the past three years.

The Collins—Carper bill also puts into place a three-day waiting period before an employee is eligible to receive 45 days of continuation of pay. This is consistent with every state's workers' compensation program that requires a three- to seven-day waiting period before benefits are paid.

To address the President's Commission's recommendation for improved executive compensation, this bill will allow the Postal Service to raise their overall executive compensation level from Executive Level 1 to that of the Vice President. This would bring the Postal Service in line with authority granted to federal agencies. This new authority will be contingent upon the development of a meaningful performance appraisal system.

Our bill has reached an important compromise on the issue of workshare discounts. The workshare program was developed by the Postal Service and the Postal Rate Commission to enable customers to pay lower rates when they perform mail preparation or transportation activities. The language in our bill supports the principle that workshare discounts should generally not exceed the costs that the Postal Service avoids as a result of the worksharing activity. However, the bill spells out certain circumstances under which workshare discounts in excess of avoided costs are warranted.

Finally, our bill would repeal a provision of Public Law 108–18 which requires that money owed to the Postal Service due to an overpayment into the Civil Service Retirement System Fund be held in an escrow account. Repealing this provision would essentially ''free up'' $78 billion over a period of 60 years. These savings would be used to not only pay off debt to the U.S. Treasury and to fund health care liabilities, but also to mitigate rate increases as well. In fact, failure to release these escrow funds could mean, for mailers, a double-digit rate increase in 2006—an expense most American businesses and many consumers are ill-equipped to afford.

The bill would also return to the Department of Treasury the responsibility for funding CSRS pension benefits relating to the military service of postal retirees. No other agency is required to make this payment. Ratepayers should not be held responsible for this $27 billion obligation.

The Postal Service has reached a critical juncture. If we are to save and strengthen this vital service upon which so many Americans rely for communication and their livelihoods, the time to act is now.

I look forward to working with all of my colleagues in the Senate, and House Government Reform and Oversight Committee Chairman TOM DAVIS, who, together with Congressman JOHN MCHUGH, also recently introduced a postal reform bill, H.R. 22.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Postal Accountability and Enhancement Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

''(5) 'postal service' refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other functions ancillary thereto;

''(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are applied;

''(7) 'rates', as used with respect to products, includes fees for postal services;

''(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36; and

''(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

''(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.''.

SEC. 102. POSTAL SERVICES.

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

''(c) Except as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking ''404(a)(8)'' and inserting ''404(a)(7)''.

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking ''and nonpostal''.

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

''§ 3621. Applicability; definitions

''(a) APPLICABILITY.—This subchapter shall apply with respect to—

''(1) first-class mail letters and sealed parcels;

''(2) first-class mail cards;

''(3) periodicals;

''(4) standard mail;

''(5) single-piece parcel post;

''(6) media mail;

''(7) bound printed matter;

''(8) library mail;

''(9) special services; and

''(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

''(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

''§ 3622. Modern rate regulation

''(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 12 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

''(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

''(1) To reduce the administrative burden and increase the transparency of the ratemaking process while affording reasonable opportunities for interested parties to participate in that process.

''(2) To create predictability and stability in rates.

''(3) To maximize incentives to reduce costs and increase efficiency.

''(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

''(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

''(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

''(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

''(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

''(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

''(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

''(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

''(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

''(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

''(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

''(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

''(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

''(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

''(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

''(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

''(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable, universal postal service; and

''(13) the policies of this title as well as such other factors as the Commission determines appropriate.

''(d) REQUIREMENTS.—

''(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

''(A) require the Postal Regulatory Commission to set annual limitations on the percentage changes in rates based on inflation using indices, such as the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the 12-month period preceding the date the Postal Service proposes to increase rates;

''(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

''(C) not later than 45 days before the implementation of any adjustment in rates under this section—

''(i) require the Postal Service to provide public notice of the adjustment;

''(ii) provide an opportunity for review by the Postal Regulatory Commission;

''(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

''(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A); and

''(D) notwithstanding any limitation set under subparagraphs (A) and (C), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

''(2) LIMITATIONS.—

''(A) CLASSES OF MAIL.—The annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

''(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

''(e) WORKSHARE DISCOUNTS.—

''(1) DEFINITION.—In this subsection, the term 'workshare discount' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

''(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

''(A) the discount is—

''(i) associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and

''(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

''(B) a reduction in the discount would—

''(i) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

''(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

''(iii) impede the efficient operation of the Postal Service;

''(C) the amount of the discount above costs avoided—

''(i) is necessary to mitigate rate shock; and

''(ii) will be phased out over time; or

''(D) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

''(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

''(A) explains the Postal Service's reasons for establishing or maintaining the rate;

''(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

''(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

''(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section.''.

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

''SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS''.

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

''SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

''§ 3631. Applicability; definitions and updates

''(a) APPLICABILITY.—This subchapter shall apply with respect to—

''(1) priority mail;

''(2) expedited mail;

''(3) bulk parcel post;

''(4) bulk international mail; and

''(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

''(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

''(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

''(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

''§ 3632. Action of the Governors

''(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

''(b) PROCEDURES.—

''(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

''(2) PUBLIC NOTICE; REVIEW; AND COMPLIANCE.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

''(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

''(B) the Postal Regulatory Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

''(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

''(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

''§ 3633. Provisions applicable to rates for competitive products

''(a) IN GENERAL.—The Postal Regulatory Commission shall, within 180 days after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

''(1) prohibit the subsidization of competitive products by market-dominant products;

''(2) ensure that each competitive product covers its costs attributable; and

''(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.

''(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.''.

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

''SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

''§ 3641. Market tests of experimental products

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

''(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

''(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

''(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

''(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

''(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3)(relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

''(c) NOTICE.—

''(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

''(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

''(B) describing the nature and scope of the market test.

''(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

''(d) DURATION.—

''(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

''(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

''(e) DOLLAR-AMOUNT LIMITATION.—

''(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 in any year, subject to paragraph (2) and subsection (g).

''(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

''(A) the product is likely to benefit the public and meet an expected demand;

''(B) the product is likely to contribute to the financial stability of the Postal Service; and

''(C) the product is not likely to result in unfair or otherwise inappropriate competition.

''(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

''(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

''(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

''(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

''§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

''(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

''(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

''(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

''(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

''(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

''(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

''(B) the views of those who use the product involved on the appropriateness of the proposed action; and

''(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

''(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

''(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

''(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

''(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

''(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

''(1) under this subchapter; or

''(2) by or under any other provision of law.''.

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

''SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW''; and

(2) by striking the heading for subchapter V and inserting the following:

''SUBCHAPTER VI—GENERAL''.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

''SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

''§ 3651. Annual reports by the Commission

''(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

''(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

''§ 3652. Annual reports to the Commission

''(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

''(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

''(2) which shall, for each market-dominant product provided in such year, provide—

''(A) product information, including mail volumes; and

''(B) measures of the service afforded by the Postal Service in connection with such product, including—

''(i) the level of service (described in terms of speed of delivery and reliability) provided; and

''(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

''(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

''(1) The per-item cost avoided by the Postal Service by virtue of such discount.

''(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

''(3) The per-item contribution made to institutional costs.

''(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and (b) with respect to service agreements and experimental products offered through market tests under section 3641 in a year, the Postal Service—

''(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

''(2) shall report such data as the Postal Regulatory Commission requires.

''(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

''(e) CONTENT AND FORM OF REPORTS.—

''(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe

the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

''(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

''(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

''(C) protecting the confidentiality of commercially sensitive information.

''(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

''(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

''(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

''(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

''(f) CONFIDENTIAL INFORMATION.—

''(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

''(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

''(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

''(1) comprehensive statement under section 2401(e);

''(2) strategic plan under section 2802;

''(3) performance plan under section 2803; and

''(4) program performance reports under section 2804.

''§ 3653. Annual determination of compliance

''(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

''(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

''(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

''(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

''(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

''(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.''.

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

''§ 3662. Rate and service complaints

''(a) IN GENERAL.—Any person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

''(b) PROMPT RESPONSE REQUIRED.—

''(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

''(A) begin proceedings on such complaint; or

''(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

''(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

''(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

''(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

''§ 3663. Appellate review

''A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

''§ 3664. Enforcement of orders

''The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.''.

SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

''CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

TITLE III—MODERN SERVICE STANDARDS

SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

''SUBCHAPTER VII—MODERN SERVICE STANDARDS

''§ 3691. Establishment of modern service standards

''(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with the Postal Service's universal service obligation as defined in sections 101 (a) and (b) and 403.

''(b) OBJECTIVES.—Such standards shall be designed to achieve the following objectives:

''(1) To enhance the value of postal services to both senders and recipients.

''(2) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

''(3) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

''(4) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

''(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

''(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

''(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

''(3) the needs of Postal Service customers, including those with physical impairments;

''(4) mail volume and revenues projected for future years;

''(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

''(6) the current and projected future cost of serving Postal Service customers;

''(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

''(8) the policies of this title and such other factors as the Commission determines appropriate.

''(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto) shall be subject to review upon complaint under sections 3662 and 3663.

SEC. 302. POSTAL SERVICE PLAN.

(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENTS.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) contain the matters relating to postal facilities provided under subsection (c).

(c) POSTAL FACILITIES.—

(1) FINDINGS.—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President's Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) IN GENERAL.—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) CONTENTS.—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) Postal Service employees on delivery routes;

(4) retail facilities in which overhead costs are shared with private businesses and other government agencies; or

(5) any other nonpost office access channel providing market retail access to postal services.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) INSPECTOR GENERAL REPORT.—

(1) IN GENERAL.—Before submitting the plan under subsection (a) and each annual report under subsection (c) to Congress, the Postal Service shall submit the plan and each annual report to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) REPORT.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan and each annual report under subsection (c)—

(A) are consistent with the continuing obligations of the Postal Service under title 39, United States Code;

(B) provide for the Postal Service to meet the service standards established under section 3691 of title 39, United States Code; and

(C) allow progress toward improving overall efficiency and effectiveness consistent with the need to maintain universal postal service at affordable rates.

(g) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

''§ 2011. Provisions relating to competitive products

''(a)(1) In this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

''(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

''(A) costs attributable to competitive products; and

''(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

''(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

''(1) revenues from competitive products;

''(2) amounts received from obligations issued by Postal Service under subsection (e);

''(3) interest and dividends earned on investments of the Competitive Products Fund; and

''(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

''(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, the Postal Service may request the investment of such amounts as the Postal Service determines advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as the Postal Service determines appropriate.

''(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Competitive Products Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

''(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

''(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

''(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

''(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

''(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

''(A) the establishment of reserve, sinking, and other funds;

''(B) application and use of revenues and receipts of the Competitive Products Fund;

''(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

''(D) such other matters as the Postal Service, considers necessary or desirable to enhance the marketability of such obligations.

''(3) Obligations issued by the Postal Service under this subsection—

''(A) shall be in such forms and denominations;

''(B) shall be sold at such times and in such amounts;

''(C) shall mature at such time or times;

''(D) shall be sold at such prices;

''(E) shall bear such rates of interest;

''(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

''(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

''(H) shall be subject to such other terms and conditions,

as the Postal Service determines.

''(4) Obligations issued by the Postal Service under this subsection—

''(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

''(B) shall contain a recital that such obligations are issued under this subsection, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

''(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

''(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

''(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

''(5)(A) Subject to subparagraph (B), the Postal Service shall make payments of principal, or interest, or both on obligations issued under this subsection from—

''(i) revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)); or

''(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e).

''(B) Based on the audited financial statements for the most recently completed fiscal year, the total assets of the Competitive Products Fund may not be less than the amount determined by multiplying—

''(i) the quotient resulting from the total revenue of the Competitive Products Fund divided by the total revenue of the Postal Service; and

''(ii) the total assets of the Postal Service.

''(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

''(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

''(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

''(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

''(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

''(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

''(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

''(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

''(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

''(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

''(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

''(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

''(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

''(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission may revise such rules.

''(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

''(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

''(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

''(II) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

''(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

''(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

''(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

''2011. Provisions relating to competitive products.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking ''and'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

''(2) COMPETITIVE PRODUCTS FUND.—The term 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and''.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking ''Fund,'' and inserting ''Fund and the balance in the Competitive Products Fund,''.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking ''title.'' and inserting ''title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).''.

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking ''There'' and inserting ''Except as otherwise provided in section 2011, there''.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting ''or 2011'' after ''section 2005'';

(B) in subsection (b)—

(i) in the first sentence, by inserting ''under section 2005'' before ''in such amounts''; and

(ii) in the second sentence, by inserting ''under section 2005'' before ''in excess of such amount.''; and

(C) in subsection (c), by inserting ''or 2011(e)(4)(E)'' after ''section 2005(d)(5)''.

SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

''§ 3634. Assumed Federal income tax on competitive products income

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

''(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

''(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

''(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

''(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

''(1) compute its assumed Federal income tax on competitive products income for such year; and

''(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

''(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.''.

SEC. 403. UNFAIR COMPETITION PROHIBITED.

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

''§ 404a. Specific limitations

''(a) Except as specifically authorized by law, the Postal Service may not—

''(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

''(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

''(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

''(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

''(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.''.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking ''The'' and inserting ''Subject to the provisions of section 404a, the''.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking ''Without'' and inserting ''Subject to the provisions of section 404a, but otherwise without''.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

''404a. Specific limitations.''.

SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

''(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

''(A) shall be considered to be a 'person', as used in the provisions of law involved; and

''(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

''(2) This subsection applies with respect to—

''(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

''(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

''(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

''(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

''(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

''(i) the antitrust laws (as defined in such subsection); and

''(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

''(2) No damages, interest on damages, costs or attorney's fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

''(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

''(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

''(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes. To the extent practicable, model building codes should meet the voluntary consensus criteria established for codes and standards as required in the National Technology Transfer and Advancement Act of 1995 as defined in Office of Management and Budget Circular A1190. For purposes of life safety, the Postal Service shall continue to comply with the most current edition of the Life Safety Code of the National Fire Protection Association (NFPA 101).

''(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

''(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

''(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

''(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

''(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

''(i) a copy of such schedule before construction of the building is begun; and

''(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of

its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

''(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

''(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

''(6) For purposes of this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

''(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

''(A) Subsection (d) or (e) of this section.

''(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

''(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

''(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

''(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

''(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

''(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).''.

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking ''Except as provided in section 3628 of this title,'' and inserting ''Except as otherwise provided in this title,''.

SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

''§ 407. International postal arrangements

''(a) It is the policy of the United States—

''(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

''(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

''(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and

''(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

''(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and shall have the power to conclude postal treaties and conventions, except that the Secretary may not conclude any postal treaty or convention if such treaty or convention would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal services, or any other person.

''(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

''(A) shall coordinate with other agencies as appropriate, and in particular, should consider the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

''(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

''(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

''(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

''(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

''(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

''(c) Before concluding any postal treaty or convention that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

''(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services as it deems appropriate, except that—

''(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be binding under international law; and

''(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

''(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

''(2) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

''(3) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Customs Service may determine in writing.''.

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

TITLE V—GENERAL PROVISIONS

SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking ''(a)'' and inserting ''(a)(1)'' and by striking

the fourth sentence and inserting the following: ''The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. Experience in the fields of law and accounting shall be considered in making appointments of Governors. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

''(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.''.

(c) 5-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States code, is amended in the first sentence by striking ''9 years'' and inserting ''5 years''.

(2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

(C) VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)''; and

(B) by adding at the end the following:

''(2) No person may serve more than 3 terms as a Governor.''.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

SEC. 502. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking ''title.'' and inserting ''title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.''.

(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

(c) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking ''such obligations,'' and inserting ''obligations issued by the Postal Service under this section,''.

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking ''(b)'' and inserting ''(b)(1)'', and by adding at the end the following:

''(2) Notwithstanding any other provision of this section—

''(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

''(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.''.

SEC. 503. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) A letter may also be carried out of the mails when—

''(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

''(2) the letter weighs at least 12½ ounces; or

''(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that permit private carriage by suspension of the operation of this section (as then in effect).

''(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.''.

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

SEC. 504. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

''(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;''.

SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

''§ 1207. Labor disputes

''(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

''(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

''(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less then 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

''(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

''(3) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

''(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of

their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.''.

(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

SEC. 506. BONUS AUTHORITY.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

''§ 3686. Bonus authority

''(a) IN GENERAL.—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

''(b) LIMITATION ON TOTAL COMPENSATION.—

''(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

''(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

''(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

''(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

''(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

''(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—Included in its comprehensive statement under section 2401(e) for any period shall be—

''(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

''(2) the amount of the bonus or other reward; and

''(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.''.

TITLE VI—ENHANCED REGULATORY COMMISSION

SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

''CHAPTER 5—POSTAL REGULATORY COMMISSION

''§ 501. Establishment

''The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

''§ 502. Commissioners

''(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

''(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

''(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

''(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

''(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

''(f) The Commissioners shall serve for terms of 6 years.'';

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

''§ 505. Officer of the Postal Regulatory Commission representing the general public

''The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.''.

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

''5. Postal Regulatory Commission .. 501''

SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

''(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

''(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title or to obtain information to be used to prepare a report under this title—

''(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

''(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

''(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

''(4) For purposes of this subsection, the term 'covered person' means an officer, employee, agent, or contractor of the Postal Service.

''(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

''(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

''(A) use such information for purposes other than the purposes for which it is supplied; or

''(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

''(3)(A) Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regulations under section 553 of title 5, that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.

''(B) Paragraph (2) shall not prevent the Commission from requiring production of information in the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for information furnished to any party.''.

SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

''(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.''.

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: ''The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.''.

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: ''The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking ''Postal Rate Commission'' each place it appears and inserting ''Postal Regulatory Commission'';

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking ''Postal Rate Commission'' and inserting ''Postal Regulatory Commission''.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking ''Postal Rate Commission'' and inserting ''Postal Regulatory Commission''.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking ''Postal Rate Office'' and inserting ''Postal Regulatory Commission''.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking ''Postal Rate Commission'' and inserting ''Postal Regulatory Commission''.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

SEC. 605. FINANCIAL TRANSPARENCY.

(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following:

''(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.''.

(b) FINANCIAL REPORTING REQUIREMENTS AND ENFORCEMENT POWERS APPLICABLE TO POSTAL SERVICE.—Section 503 of title 39, United States Code (as so redesignated by section 601 and 604) is amended by—

(1) inserting ''(a)'' before ''The Postal Regulatory Commission shall promulgate''; and

(2) adding at the end the following:

''(b)(1) Beginning with the first full fiscal year following the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service shall file with the Postal Regulatory Commission —

''(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information prescribed in Form 10–Q of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form;

''(B) within 60 days after the end of each fiscal year, an annual report containing the information prescribed in Form 10–K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form; and

''(C) periodic reports within the time frame and containing the information prescribed in Form 8–K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form.

''(2) For purposes of preparing the reports required under paragraph (1), the Postal Service shall be deemed to be the registrant described in the Securities and Exchange Commission forms, and references contained in such forms to Securities and Exchange Commission regulations are applicable.

''(3) For purposes of preparing the reports required under paragraph (1), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262; Public Law 107–204) beginning with fiscal year 2007 and in each fiscal year thereafter.

''(c)(1) The reports required under subsection (b)(1)(B) shall include, with respect to the financial obligations of the Postal Service under chapters 83, 84, and 89 of title 5 for retirees of the Postal Service—

''(A) the funded status of such obligations of the Postal Service;

''(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

''(C) components of net periodic costs;

''(D) cost methods and assumptions underlying the relevant actuarial valuations;

''(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic cost and the accumulated obligation of the Postal Service under chapter 89 of title 5 for retirees of the Postal Service;

''(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

''(G) the composition of plan assets reflected in the fund balances; and

''(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

''(2)(A) Beginning with the fiscal year 2007 and in each fiscal year thereafter, for purposes of the reports required under subsection (b)(1) (A) and (B), the Postal Service shall include segment reporting.

''(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A), after consultation with the Postal Regulatory Commission.

''(d) For purposes of the annual reports required under subsection (b)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed under subsection (c) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

''(e) The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under subsection (b)(1)(B).

''(f) The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this section whenever it shall appear that the data—

''(1) have become significantly inaccurate;

''(2) can be significantly improved; or

''(3) are not cost beneficial.''.

TITLE VII—EVALUATIONS

SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.

(a) REPORT BY THE POSTAL REGULATORY COMMISSION.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as ''universal service and the postal monopoly''), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.

(a) REPORT BY THE INSPECTOR GENERAL.—

(1) IN GENERAL.—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) CONTENTS.—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) REPORT BY THE POSTAL SERVICE.—

(1) REPORT TO CONGRESS.—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

(2) PROBLEM AREAS.—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

SEC. 705. STUDY ON RECYCLED PAPER.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

(1) the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper;

(2) a description of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including the amount of annual revenue generated and savings achieved by the Postal Service as a result of its use of recycled paper and other recycled products and its efforts to recycle undeliverable and discarded mail and other materials; and

(3) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives and the projected costs and revenues of undertaking such opportunities.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

SEC. 801. SHORT TITLE.

This title may be cited as the ''Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004''.

SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

''(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.''; and

(2) by amending section 8348(h) to read as follows:

''(h)(1) In this subsection, the term 'Postal surplus or supplemental liability' means the estimated difference, as determined by the Office, between—

''(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

''(B) the sum of—

''(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

''(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

''(iii) any other appropriate amount, as determined by the Office in accordance with

generally accepted actuarial practices and principles.

''(2)(A) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2006. If the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

''(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

''(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

''(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

''(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.

''(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.''.

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

SEC. 803. HEALTH INSURANCE.

(a) IN GENERAL.—

(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking ''shall be paid by the United States Postal Service.'' and inserting ''shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.''; and

(B) by inserting after section 8909 the following:

''§ 8909a. Postal Service Retiree Health Benefit Fund

''(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

''(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

''(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

''(d)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

''(2)(A) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

''(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

''(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

''(II) the net present value computed under paragraph (1).

''(B) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by September 30, 2045, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

''(3) Not later than September 30, 2006, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund—

''(A) the net present value computed under paragraph (1); and

''(B) the annual installment computed under paragraph (2)(B).

''(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

''(5) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

''8909a. Postal Service Retiree Health Benefits Fund.''.

(b) TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR 2006.—For fiscal year 2006, the amounts paid by the Postal Service in Government contributions under section 8906(g)(2)(A) of title 5, United States Code, for fiscal year 2006 contributions shall be deducted from the initial payment otherwise due from the Postal Service to the Postal Service Retiree Health Benefits Fund under section 8909a(d)(3) of such title as added by this section.

SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.

Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) is repealed.

SEC. 805. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

TITLE IX—COMPENSATION FOR WORK INJURIES

SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

(1) by striking ''An employee'' and inserting ''(a) An employee other than a Postal Service employee''; and

(2) by adding at the end the following:

''(b) A Postal Service employee is not entitled to compensation or continuation of pay for the first 3 days of temporary disability, except as provided under paragraph (3) of subsection (a). A Postal Service employee may use annual leave, sick leave, or leave without pay during that 3-day period, except that if the disability exceeds 14 days or is followed by permanent disability, the employee may have their sick leave or annual leave reinstated or receive pay for the time spent on leave without pay under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

''(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary''.

SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.

(a) TOTAL DISABILITY.—Section 8105 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: ''This section applies to a Postal Service employee, except as provided under subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In this subsection, the term 'retirement age' has the meaning given under section 216(*l*)(1) of the Social Security Act (42 U.S.C. 416(*l*)(1)).

''(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

''(A) the date on which the injured employee reaches retirement age; or

''(B) 1 year after the employee begins receiving compensation.''.

(b) PARTIAL DISABILITY.—Section 8106 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: ''This section applies to a Postal Service employee, except as provided under subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In this subsection, the term 'retirement age' has the meaning given under section 216(*l*)(1) of the Social Security Act (42 U.S.C. 416(*l*)(1)).

''(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability

is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

''(A) the date on which the injured employee reaches retirement age; or

''(B) 1 year after the employee begins receiving compensation.''.

TITLE X—MISCELLANEOUS

SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 404 of title 39, United States Code (as amended by this Act), is further amended by adding at the end the following:

''(d) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section 1315 of title 40. The Postmaster General, or the designee of the Postmaster General, may take any action that the Secretary of Homeland Security may take under section 1315 of title 40, with respect to that property.

SEC. 1002. EXPANDED CONTRACTING AUTHORITY.

(a) AMENDMENT TO TITLE 39, UNITED STATES CODE.—

(1) CONTRACTS WITH AIR CARRIERS.—Subsection (e) of section 5402 of title 39, United States Code, is amended—

(A) by striking the matter preceding paragraph (2) and inserting the following:

''(e)(1) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate air transportation, including the rates for that transportation, either through negotiations or competitive bidding.'';

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following:

''(2) Notwithstanding subsections (b) through (d), the Postal Service may contract with any air carrier or foreign air carrier for the transportation of mail by aircraft in foreign air transportation, including the rates for that transportation, either through negotiations or competitive bidding, except that—

''(A) any such contract may be awarded only to—

''(i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation;

''(ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation; or

''(iii) a combination of such air carriers or foreign air carriers (or both);

''(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

''(C) during the 5-year period beginning 1 year after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service may not under this paragraph—

''(i) contract for service between a pair or combination of pairs of points in foreign air transportation with—

''(I) a foreign air carrier; or

''(II) an air carrier to the extent that service provided would be offered through a code sharing arrangement in which the air carrier's designator code is used to identify a flight operated by a foreign air carrier; or

''(ii) tender mail in foreign air transportation under contracts providing for the carriage of mail in foreign air transportation over all (or substantially all, as determined by the Postal Service) of a carrier's routes or all or substantially all of a carrier's routes within a geographic area determined by the Postal Service on the basis of a common unit price per mile and a separate terminal price to—

''(I) a foreign air carrier; or

''(II) an air carrier to the extent that service provided would be offered through a code sharing arrangement in which the air carrier's designator code is used to identify a flight operated by a foreign air carrier, unless—

''(aa) with respect to clause (i) and this clause, fewer than 2 air carriers capable of providing service to the Postal Service adequate for its purposes between the pair or combination of pairs of points in foreign air transportation offer scheduled service between the pair or combination of pairs of points in foreign air transportation which are the subject of the contract or tender;

''(bb) with respect to clause (i), after competitive solicitation, the Postal Service has not received at least 2 offers from eligible air carriers capable of providing service to the Postal Service adequate for its purposes between the pair of combination of pairs of points in foreign air transportation; or

''(cc) with respect to this clause, after competitive solicitation, fewer than 2 air carriers under contract with the Postal Service offer service adequate for the Postal Service's purposes between the pair or combination of pairs of points in foreign air transportation for which tender is being made;

''(D) beginning 6 years after the date of enactment of the Postal Accountability and Enhancement Act, every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and

''(E) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail transported in foreign air transportation.

''(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.''.

(2) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) The terms 'air carrier', 'air transportation', 'foreign air carrier', 'foreign air transportation', 'interstate air transportation', and 'mail' have the meanings given such terms in section 40102(a) of title 49.''.

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—

(1) AUTHORITY OF POSTAL SERVICE TO PROVIDE FOR INTERSTATE AIR TRANSPORTATION OF MAIL.—Section 41901(a) of title 49, United States Code, is amended to read as follows:

''(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in air transportation under this chapter and under chapter 54 of title 39.''.

(2) SCHEDULES FOR CERTAIN TRANSPORTATION OF MAIL.—Section 41902 of title 49, United States Code, is amended—

(A) by striking subsection (b) and inserting the following:

''(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

''(1) the places between which the carrier is authorized to transport mail in Alaska;

''(2) every schedule of aircraft regularly operated by the carrier between places described under paragraph (1) and every change in each schedule; and

''(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.'';

(B) in subsection (c), by striking ''(b)(3)'' and inserting ''(b)''; and

(C) in subsection (d), in the first sentence, by striking ''(b)(3)'' and inserting ''(b)''.

(3) PRICES FOR FOREIGN TRANSPORTATION OF MAIL.—Section 41907 of title 49, United States Code, is amended—

(A) by striking ''(a) LIMITATIONS.—''; and

(B) by striking subsection (b).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 41107, 41901(b)(1), 41902(a), and 41903 (a) and (b) of title 49, United States Code, are amended by striking ''in foreign air transportation or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 1003. REPORT ON THE UNITED STATES POSTAL INSPECTION SERVICE AND THE OFFICE OF THE INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall review the functions, responsibilities, and areas of possible duplication of the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service and submit a report on the review to the Committee on Homeland Security and Governmental Affairs of the Senate.

(b) CONTENTS.—The report under this section shall include recommendations for legislative actions necessary to clarify the roles of the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service to strengthen oversight of postal operations.

SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings as recommended in July 2003 by the President's Commission on the United States Postal Service, in a manner that is compatible with the fair and consistent treatment of suppliers and contractors, as befitting an establishment in the United States Government.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT OF 2005

Mr. CARPER. Mr. President, I rise today to join my friend from Maine, Senator COLLINS, in introducing the Postal Accountability and Enhancement Act of 2005, legislation that makes the reforms necessary for the Postal Service to thrive in the 21st Century and to better serve the American people. This bill is almost identical to S. 2468, the version of the Postal Accountability and Enhancement Act that was unanimously reported out of the Governmental Affairs Committee last June on a 17–0 vote.

When I rose with Senator COLLINS to introduce S. 2468 last year, I noted that some of our colleagues may wonder why we need postal reform. Most of us probably receive few complaints from our constituents about the Postal Service. Most Americans like the Postal Service just the way it is and don't want to see it changed. We must keep in mind, however, that, despite the fact that the mailing industry, and the economy as a whole, have changed radically over the years, the Postal Service has, for the most part, remained unchanged for more than three decades now.

Senator COLLINS and I are re-introducing this bill today, then, because the Postal Service continues to operate under a business model created a generation ago.

In the early 1970s, Senator STEVENS led the effort in the Senate to create the Postal Service out of the failing Post Office Department. At the time, the Post Office Department received about 20 percent of its revenue from taxpayer subsidies. Labor-management relations were at their worst, service was suffering and there was little hope the department would be able to muster the resources necessary to service a growing delivery network.

By all accounts, the product of Senator STEVENS' labors, the Postal Reorganization Act signed into law by President Nixon in 1971, has been a phenomenal success. The Postal Service today receives virtually no taxpayer support. The service its hundreds of thousands of employees provide to every American, nearly every day is second to none. The Postal Service now delivers to 141 million addresses each day and is the anchor of a $900 billion mailing industry.

As we celebrate the success of the Postal Reorganization Act, however, we need to be thinking about what needs to be done to help the Postal Service continue to thrive in the years to come.

The Postal Service is clearly in need of modernization once again. Back in the early 1970s, none of the Postal Service's customers had access to fax machines, cell phones or pagers. Nobody imagined that we would ever enjoy conveniences like e-mail and electronic bill pay that could replace a First Class letter. That, of course, is no longer the case. Most of the mall I receive from my constituents these days arrives via fax and e-mail instead of hard copy mail, a marked change from my days in the House and even from my more recent days as Governor of Delaware.

This continuing electronic diversion of mail, coupled with a slow economy and the threat of terrorism, has made for some rough going at the Postal Service of late. In 2001, as Postmaster General Potter came onboard, the Postal Service was projecting its third consecutive year of deficits. They lost $199 million in 2000 and $1.68 billion in 2001. They were projecting losses of up to $4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend $4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives. The Postal Service was also perilously close to its $15 billion debt ceiling and had been forced to raise rates three times in less than two years in order to pay for its operations.

A number of positive steps have been taken since 2001. General Potter has led a commendable effort to improve productivity and make the Postal Service more efficient. Billions of dollars in costs have been taken out of the system—some $4.3 billion since 2002—according to the Postal Service's most recent annual report. Thousands of positions have been eliminated through attrition and successful automation programs have yielded great benefits, resulting in the smallest workforce seen at the Postal Service since the early 1980s.

Perhaps most dramatically, the Postal Service learned in 2002 that an unfunded pension liability they once believed was as high as $32 billion was actually significantly lower. Senator COLLINS and I responded with legislation, the Postal Civil Service Retirement System Funding Reform Act, which cut the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly $3 billion. This has freed up money for debt reduction and prevented the need for further rate increases until at least next year. The Postal Service's debt to the Treasury now stands at about $1.8 billion—the lowest it's been in more than 20 years—and rates have remained stable since the passage of the pension bill.

Aggressive cost cutting and a lower pension payment, then, have put off the postal emergency we thought was right around the corner just a few years ago. But cost cutting can only go so far and will not solve the Postal Service's long-term challenges. These long-term challenges were laid out in stark detail last year when Postmaster General Potter and then-Postal Board of Governors Chairman David Fineman testified before the House Government Reform Committee's Special Panel on Postal Reform. Mr. Fineman pointed out in his testimony that the total volume of mail delivered by the Postal Service has declined by more than 5 billion pieces since 2000. Over the same period, the number of homes and businesses the Postal Service delivers to have increased by more than 5 million. First Class mail, the largest contributor to the Postal Service's bottom line, is leading the decline in volume. Some of those disappearing First Class letters are being replaced by advertising mail, which earns significantly less. Many First Class letters have likely been lost for good to fax machines, e-mail and electronic bill pay.

Despite electronic diversion, the Postal Service continues to add between 1.6 million and 1.9 million new delivery points each year, creating the need for thousands of new routes and thousands of new letter carriers to work them. In addition, faster-growing parts of the country will need new or expanded postal facilities in the coming years. As more and more customers turn to electronic forms of communication, however, letter carriers are bringing fewer pieces of mail to each address they serve. The rate increases that will be needed to maintain the Postal Service's current infrastructure, finance retirement obligations to its current employees, pay for new letter carriers and build facilities in growing parts of the country will only erode mail volume further.

The Postal Service has been trying to modernize on its own. General Potter and his management team are making progress, but there is only so much they can do without legislative change. Even if the Postal Service begins to see volume and revenues pick up, we will still need to make fundamental changes in the way the Postal Service operates in order to make them as successful in the 21st Century as they were in the 20th Century.

This is where the Postal Accountability and Enhancement Act comes in. First, our bill begins the process of developing a modern rate system for pricing Postal Service products. The new system, to be developed by a strengthened Postal Rate Commission, renamed the Postal Regulatory Commission, would allow retained earnings, provide the Postal Service significantly more flexibility in setting prices and streamline today's burdensome rate making process. To provide stability, predictability and fairness for the Postal Service's customers, rates would remain within a cap to be set each year by the Regulatory Commission.

The second major provision in the Postal Accountability and Enhancement Act requires the Postal Service to set strong service standards for its Market Dominant products, a category made up mostly of those products, like First Class mail, that are part of the postal monopoly. The new standards will improve service and will be used by the Postal Service to establish performance goals, rationalize its physical infrastructure and streamline its workforce.

Third, the Postal Accountability and Enhancement Act ensures that the Postal Service competes fairly. The bill prohibits the Postal Service from issuing anti-competitive regulations. It also subjects the Postal Service to state zoning, planning and land use laws, requires them to pay an assumed Federal income tax on products like packages and Express Mail that private firms also offer and requires that these products as a whole pay their share of the Postal Service's institutional costs. The Federal Trade Commission will further study any additional legal benefits the Postal Service enjoys that

its private sector competitors do not. The Regulatory Commission will then find a way to use the rate system to level the playing field.

Fourth, the Postal Accountability and Enhancement Act improves Postal Service accountability, mostly by strengthening oversight. Qualifications for membership on the Regulatory Commission would be stronger than those for the Rate Commission so that Commissioners would have a background in finance or economics. Commissioners would also have the power to demand information from the Postal Service, including by subpoena, and have the power to punish the Postal Service for violating rate and service regulations. In addition, the Regulatory Commission will make an annual determination as to whether the Postal Service is in compliance with existing rate regulations and service standards and will have the power to punish them for any transgressions.

Fifth, the Postal Accountability and Enhancement Act revises two provisions from the ''Postal Civil Service Retirement System Funding Reform Act in an effort to shore up the Postal Service's finances in the years to come. As our colleagues may be aware, that bill required the Postal Service, beginning in 2006, to deposit any savings it enjoys by virtue of lower pension payments into an escrow account. In this bill, we eliminate that requirement in order to allow the Postal Service to spend the money that would have gone into escrow to begin pre-funding on a current basis its $50 billion retiree health obligation. Leftover savings would be used to continue paying down debt to the Treasury and to maintain rate stability.

The bill Senator COLLINS and I are introducing today also reverses the provision in the Postal Civil Service Retirement System Funding Reform Act that made the Postal Service the only Federal agency shouldered with the burden of paying the additional pension benefits owed to their employees by virtue of past military service.

Finally, and most importantly, the Postal Accountability and Enhancement Act preserves universal service and the postal monopoly and forces the Postal Service to concentrate solely on what it does best—processing and delivering the mail to all Americans. Our bill limits the Postal 'Service, for the first time, to providing ''postal services,'' meaning they would be prohibited from engaging in other lines of business, such as e-commerce, that draw time and resources away from letter and package delivery. It also explicitly preserves the requirement that the Postal Service ''bind the Nation together through the mail'' and serve all parts of the country, urban, suburban and rural, in a non-discriminatory fashion. Any service standards established by the Postal Service will continue to ensure delivery to every address, every day. In addition, the bill maintains the prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and urban customers continue to enjoy full access to retail postal services.

As I mentioned at the beginning of my remarks, this bill that Senator COLLINS and I are introducing today is almost identical to the version of the Postal Accountability and Enhancement Act that was unanimously reported out of the Governmental Affairs Committee last June on a 17–0 vote. A similar bill was unanimously reported out of the House Government Reform Committee last year as well. Neither bill was considered on the floor of the Senate or the House, however, due—I'm told—to objections raised by the administration.

I was deeply disappointed that we were unable to complete action on postal reform last year. However, Senator COLLINS and I, our staffs and our colleagues in the House have had a series of discussions with administration officials since the 108th Congress adjourned last year and have narrowed our differences with them on these issues significantly. I'm pleased to report that this bill contains a handful of new provisions drafted to address specific concerns raised by the Administration.

First, we demand even greater financial transparency from the Postal Service. The Postal Accountability and Enhancement Act gives the Postal Service more room to operate like a private business. For quite some time, however, it's been clear that the financial reporting required of the Postal Service has been lacking. It's difficult to look at the Postal Service's financial reports and learn as much as we'd like to learn about its current condition and its future liabilities. For this reason, our bill requires the Postal Service to begin filing the very same quarterly and annual Securities and Exchange Commission disclosure forms that private sector firms must file.

Second, we add language drafted at the request of the Treasury Department that would ensure that the Postal Service does its banking and investing with the Federal Financing Bank. Our original bill would have given the Postal Service almost total freedom to invest any revenue earned by its competitive products in the market as if they were a private business. Treasury feared this could have a negative impact on the markets and the issuance of federal debt.

Third, we give the Postal Board of Governors the ability to better reward top Postal Service executives for their performance and recruit top talent. We accomplish this by raising the cap on executive pay at the Postal Service to the level of compensation given to the Vice President. This will allow the Board to reward high-performing managers. It should also make it easier to recruit and retain qualified managers.

Fourth, we ensure that the rate cap to be developed by the Postal Regulatory Commission is truly workable by requiring that the cap be based on the Consumer Price Index. A CPI-based cap should guarantee that the Postal Service has the room to operate each year without breaking the cap or turning to the Treasury for assistance while still giving mailers the predictability they need.

This is significant progress but we still have our work cut out for us. I look forward to working in the coming weeks with Chairman COLLINS, my colleagues on the Homeland Security and Governmental Affairs Committee, our House counterparts and the administration to work out any remaining differences we have. It's vitally important that we succeed.

The Postal Board of Governors voted last month to go forward with a rate increase. If approved by the Postal Rate Commission, this increase will go into effect sometime next year. Thanks to increased productivity, this is expected to be a lower increase than many observers feared. Without postal reform, however, especially the language freeing the Postal Service from the escrow requirement and the military pension obligation, future rate increases will be higher. Probably much higher. This will only speed the flight from hard copy mail to electronic forms of communication. The impact of this flight will be significant, not just at the Postal Service but throughout the entire economy.

A recent study conducted by the Envelope Manufacturers Association Foundation's Institute for Postal Studies found that, if mail volume were to decline by 10 percent more than 780,000 mail-related jobs will be at risk across the country. More than 2,000 of those jobs are in Delaware. If mail volume were to decline by 20 percent more than 1,500,000 mailing industry jobs will be at risk across the country. More than 4,000 of those jobs are in Delaware. We need to act soon to prevent this from happening.

In closing, I'd like to point out how amazing it is to me to think that the Postal Service, something Senator STEVENS was literally able to put together at his kitchen table at the very beginning of his career, could have lasted so long and had such an enduring impact on every American. I'm hopeful that the model Senator COLLINS and I have set out in this bill today can last at least that long and have just as positive an impact on our nation and our economy as the Postal Service has had over the past 35 years.

COLLINS AND GREGG COLLOQUY ON POSTAL REFORM

Ms. COLLINS. Mr. President, today I introduce the Postal Accountability and Enhancement Act of 2005, a bill designed to help the 225-year-old Postal Service meet the challenges of the 21st century. I originally introduced this bill last May. In June of 2004, the bill was unanimously reported out of the Homeland Security and Governmental Affairs Committee. That bill, S. 2468,

had the strong endorsements of the National Rural Letter Carriers Association, the National Association of Letter Carriers, the National Association of Postmasters of the United States, and the Coalition for a 21st Century Postal Service—which represents thousands of the major mailers, employee groups, small business, and other users of the mail. It also had the strong bipartisan support of twenty-two members of the United States Senate. Unfortunately, the 108th Congress expired before my bill passed the Senate.

It has long been acknowledged that the financial and operational problems confronting the Postal Service are serious. At present, the Postal Service has roughly $70 billion to $80 billion in unfunded liabilities and obligations, which include $1.8 billion in debt to the U.S. Treasury, $7.6 billion for workers' compensation claims, $3.5 billion for retirement costs, and as much as $47 billion to cover retiree health care costs. The Government Accountability Office's Comptroller General, David Walker, has pointed to the urgent need for ''fundamental reforms to minimize the risk of a significant taxpayer bailout or dramatic postal rate increases.'' The Postal Service has been on GAO's ''High-Risk'' List since April of 2001. The Postal Service is at risk of a ''death spiral'' of decreasing volume and increasing rates that lead to further decreases in volume.

The Postal Service is the linchpin of a $900-billion mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, and paper manufacturing. The health of the Postal Service is essential to the vitality of thousands of companies and the millions that they employ.

First and foremost, my bill preserves the basic features of universal service—affordable rates, frequent delivery, and convenient community access to retail postal services. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communication link upon which many Americans rely would be jeopardized.

This postal reform legislation grants the Postal Service Board of Governors the authority to set rates for competitive products like Express Mail and Parcel Post, as long as these prices do not result in cross subsidy from market-dominant products. It replaces the current lengthy and litigious rate-setting process with a rate cap-based structure for market-dominant products such as first-class mail, periodicals, and library mail. The bill also introduces new safeguards against unfair competition by the Postal Service in competitive markets.

The Postal Accountability and Enhancement Act will greatly improve the financial transparency of the Postal Service. The USPS would be required to file with the Postal Regulatory Commission certain Securities and Exchange Commission financial disclosure forms, along with detailed annual reports on the status of the Postal Service's pension and post-retirement health obligations in order to ensure increased financial transparency.

The legislation repeals a provision of Public Law 108–18 which requires that money owed to the Postal Service due to an overpayment into the Civil Service Retirement System Fund be held in an escrow account, which would essentially ''free up'' $78 billion over a period of 60 years. These savings would be used to not only pay off debt to the U.S. Treasury and to fund health care liabilities, but also to mitigate rate increases. It also returns to the Department of the Treasury the responsibility for funding CSRS pension benefits relating to the military service of postal retirees—a responsibility that the Treasury Department bears for all executive branch departments and agencies.

The bill also converts workers' compensation benefits for total or partial disability to a retirement annuity when the affected employee reaches 65 years of age, and puts into place a 3-day waiting period before an employee is eligible to receive 45 days of continuation of pay. These changes will save the Postal Service approximately $50 million in workers' compensation costs over a 10-year period.

The Postal Service has reached a critical juncture. If we are to save and strengthen this vital service upon which so many Americans rely for communication and their livelihoods, the time to act is now.

I therefore ask the Senior Senator from New Hampshire and chairman of the Senate Budget Committee whether I can count on his assistance and support to help pass this legislation this Congress.

Mr. GREGG. I thank the chairman of the Homeland Security and Governmental Affairs Committee for her question. I do recognize the economic importance of a healthy postal service, and as a Senator from the rural State of New Hampshire, I appreciate the role of a healthy Postal Service in meeting the universal service needs of rural residents. I look forward to reading the bill, reading the CBO cost estimate of the bill, and working with the Senator from Maine to ensure that a true, fiscally responsible postal reform bill is enacted.

Ms. COLLINS. I thank my friend from New Hampshire and look forward to working with him on this important piece of legislation.

By Mr. BINGAMAN (for himself, Mr. THOMAS, Mr. ISAKSON, and Mr. BURNS):

S. 663. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today my colleague, Senator THOMAS, and I along with Senator ISAKSON are re-introducing the ''Equity for Our Nation's Self-Employed Act of 2005.'' This important legislation corrects an inequity that currently exists in our tax code that forces self-employed workers to pay payroll taxes on the funds used to pay for their health insurance while larger businesses do not. Because of this inequity, health insurance is more expensive for the self-employed. At a time when the uninsured are growing at an alarming rate, we need to find ways to reduce the cost of health insurance. This legislation is a first logical step.

Under current law, the self-employed are allowed an income tax deduction for the amount they pay for health insurance, but must still calculate their payroll taxes as if they were not allowed this income tax deduction. The result is that the self-employed are paying payroll taxes on the amount they pay for health insurance. As previously stated, larger businesses do not include pay payroll taxes on the amount they pay for health insurance. The legislation we are introducing today would stop this inequitable tax treatment and allow the self-employed to deduct the amount they pay for health insurance from their calculation of payroll taxes.

This problem affects all self-employed who provide health insurance to their families. According to the Census Bureau, there are almost 74,000 self-employed workers in New Mexico. While we have no idea how many of these people in New Mexico have health insurance, we do know that roughly 3.6 million working families in the United States paid self-employment tax on their health insurance premiums. Estimates indicate that roughly 60 percent of our Nation's uninsured are either self-employed or work for a small business. According to the Kaiser Family Foundation, self-employed workers spend more than $9,000 per year to provide health insurance for their family. Because they cannot deduct this as an ordinary business expense, those that spend this amount will pay a 15.3 percent tax on their premiums resulting in almost $1,400 of taxes annually.

This problem was identified by the National Taxpayer Advocate in several of her annual reports to Congress and our legislation to correct it is supported by a variety of groups including the National Association for the Self-Employed, the National Small Business Association, the National Federation of Independent Businesses, the U.S. Chamber of Commerce, the U.S. Hispanic Chamber of Commerce, and the Small Business Legislative Council.

I look forward to working with my colleagues to get this important legislation passed.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Equity for Our Nation's Self Employed Act of 2005''.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. DORGAN (for himself, Mr. GRAHAM, and Mr. AKAKA):

S. 665. A bil. to reauthorize and improve the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 to establish a program to commercialize hydrogen and fuel cell technology, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DORGAN. Mr. President, I rise today to introduce a piece of legislation, along with Mr. GRAHAM, that I believe is needed to solve our long-term energy need. It is imperative that our Nation implements a roadmap to achieving our goal of creating a hydrogen fuel-cell economy. I believe this measure is the best way to diversify our energy portfolio and protect our national security interests.

This legislation would invest $7.9 billion over 10 years in hydrogen fuel cell research and deployment. Additionally, the measure would change the current direction of the hydrogen program, allowing each program related to developing hydrogen to build off of each other. Similar to what has been recommended by the National Academies, it realizes a more conscious systems approach to program design.

You see, currently the hydrogen program is like a series of small block grants. We send money to the Department of Energy, DOE, and simply tell them to come up with a program. Under this scenario, with little accountability or direction, the program has not moved as swiftly as we would like.

Changing the structure of the hydrogen program will ensure that the long-term goal is reached and the benefits are reaped. What this legislation does is compartmentalize each program at DoE related to hydrogen development. Instead of sending a chunk of money, the funds will now be targeted to programs that will be the foundation for building and commercializing a hydrogen fuel-cell economy.

Additionally, this measure uses the successful ''learning demonstration'' technique of building institutional relationships among key industries and with the Government that has strong support from both the fuels industry and the auto sector, and applies this as a program design to all large scale systems demonstrations. These demonstrations are then linked to refining the R&D tasks again after the demonstrations complete their early phases, so that concrete learning is integrated directly into a final round of more focused R&D.

This bill enables a more strategic approach to program planning in the formation of a hydrogen economy. It also includes more interaction between R&D and demonstrations—with emphasis on development—that is the key to accelerating commercialization and movement to market.

This measure does not reinvent the wheel. Instead, it takes what we have learned thus far and focuses our efforts for the future. Providing developmental targets and accountability will also allow us to adjust our priorities appropriately.

Introduction of this measure could not come at a more critical time. Today, oil prices are at an all time high of $57.00 a barrel. This increase has directly hit consumers where it hurts most—in their wallets. Today in the State of North Dakota, consumers will spend $330,000 more for gasoline than they did this time last year. This is nothing more than an additional tax on hard working families who have to drive around during the course of their daily lives. It is no longer a question of whether you can afford to sign your children up for extra curricular activities like baseball or ballet; it is now a question of whether you can afford to even take them to these activities.

It shouldn't be this way, especially in America. However, we continue to be beholden to the same generational argument: Where can we dig and drill next? We need to jump over this debate and I believe this measure does that.

Let me describe why I think we ought to do this and why focusing our attention and resources is important. I will harken back to the Apollo program. On May 25, 1961, President John F. Kennedy announced our Nation was establishing a goal of sending a man to the Moon and having a safe return by the end of the decade.

The Apollo project was an enormous undertaking. The NASA annual budget increased from $500 million in 1960 to $5.2 billion in 1965. It represented 5.3 percent of the Federal budget in 1965. Think about that. In today's terms, that would be over $115 billion. NASA engaged private industry, university research, and academia in a massive way and contractor employees increased by a factor of 10, to 376,000 people, in 1965.

When President Kennedy said in 1961 it was his vision to have a man walk on the Moon by the end of the decade, there was no technological capability to do so at that moment and no guarantee it could even be done. During the height of the cold war, the Soviets had an advantage in space flight and that advantage was of great concern to us. They had put up a satellite called Sputnik and the technological barriers facing the U.S. in catching up were very significant. The expense and resolve were daunting, but yet, on July 20, 1969, Neil Armstrong and Buzz Aldrin stood on the surface of the Moon and pantomimed a golf game. In a single decade, the President and the country set and reached an unthinkable goal.

Now let's talk about another goal, another big idea, one that we ought to establish now for this country and for its future. That is the goal of deciding, as President Bush has suggested, that we move toward a hydrogen economy and fuel-cells for our vehicles. I will describe why I think this is important.

America's energy security is threatened by our dependence on foreign oil. Oil prices are at record highs and America now imports 62 percent of the oil it consumes. Our import level is expected to grow to 68 percent by 2025. Nearly all of our cars and trucks run on gasoline, and they are the main reason America imports so much oil. Two-thirds of the oil Americans use each day is used for transportation; fuel-cell vehicles offer the best hope of dramatically reducing our long-term dependence on foreign oil and protecting our national security interests.

The American economy is and will be held hostage by our ability to find and import oil from outside of our country's borders. Should this cause all of us great concern? Yes. This is a very serious problem. If we wake up tomorrow morning, God forbid, and terrorists have interrupted the supply of oil to this country—and, yes, that could happen—this country's economy will be flat on its back. It will be flat on its back because we rely on oil from sources outside this country, much of it from very troubled parts of the world. And our dependence is only expected to increase.

Whenever we discuss oil, the debate centers around two issues—drilling in ANWR and CAFÉ standards. If it is only those two issues, we lose. We need to move beyond these issues. Yes, we can address them, but it seems to me if these are our only options, every few years we will debate exactly the same issues: Where do we drill next? and, How much more efficient can we make a carburetor, through which we run gasoline?

If our energy strategy for this country's future is simply digging and drilling, then it is a strategy I call 'yesterday forever,' which means it doesn't really change very much. Every few years we can debate the issue of how dependent we are on oil imports and how dangerous it is for us. I think we should have a different debate, one that breaks our normal cycle.

That does not mean we should not dig and drill. We will, we can, and we should. We will always use fossil fuels. But these resources must be used in a sustainable and efficient manner. We will continue to dig and drill, but that cannot be all we do. If it is, we really

have not moved the ball forward at all. So what else can we do? I believe we should chart a different course.

First of all, using fuel-cells and hydrogen is twice as efficient in getting power to a wheel as using the internal combustion engine. Second, when we use hydrogen fuel-cells in automobiles or vehicles, we are sending water vapor out the tailpipe. What a wonderful thing for our environment and our economy. We double the efficiency of the energy source, while at the same time eliminating the pollution out of the tailpipe. That makes great sense to me.

In the past I have introduced legislation saying let's move to a different kind of technology, a different kind of energy economy; let's move to a hydrogen economy using fuel-cells. This bill is different from my previous bills because it would not only authorize higher funding levels, but just as importantly, it would change the way the program works.

My point is simple. We need accountability and targets and timetables in all the programs developing hydrogen. While this measure specifically states that we should set a target of 100,000 vehicles on the road by 2010 and 2.5 million by 2020, it also includes developmental milestones within each program, essentially giving us a roadmap of where we need to go and how to get there. If we do not set this out, we will not get there. If we do not have the same resolve towards establishing a hydrogen fuel-cell economy as President Kennedy had in putting a man on the Moon then we are not going to get there. Not without the focus and commitment needed.

Are there issues that need to be resolved? Sure there are, but we will never resolve them unless we implement a plan to do so. That is why I feel this legislation is the best approach. We focus on what is needed, while building on what we have. Instead of having two or more projects moving in different directions, with no connection, we set out a more focused approach where we can see exactly the progress we are making.

This commitment is what is needed and this direction is supported throughout the hydrogen industry. We cannot let this opportunity pass us by. If we sit and do nothing when the price of oil is at its highest, then I fear we will never do anything. This type of commitment and resolve is needed for our economic future, as well as to ensure our national security interests.

If we start now, I have no doubt that hydrogen fueled vehicles will be to our grandchildren what gasoline was to our grandparents.

Mr. DORGAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Hydrogen and Fuel Cell Technology Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. HYDROGEN AND FUEL CELL TECHNOLOGY AUTHORIZATION.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990.'.

''(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) CARBON FOOTPRINT.—The term 'carbon footprint' means the sum of carbon equivalent emissions from all energy conversion processes occurring from raw material through hydrogen production, distribution, and use.

''(2) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(3) FUEL CELL.—The term 'fuel cell' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

''(4) INFRASTRUCTURE.—The term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(6) STATIONARY; PORTABLE.—The terms 'stationary' and 'portable', when used in reference to a fuel cell, include—

''(A) continuous electric power; and

''(B) backup electric power.

''(7) TASK FORCE.—The term 'Task Force' means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a).

''(8) TECHNICAL ADVISORY COMMITTEE.—The term 'Technical Advisory Committee' means the independent Technical Advisory Committee of the Task Force selected under section 102(d).

''SEC. 3. FINDINGS.

''Congress finds that—

''(1) the United States imports 60 percent of all the oil and products that it consumes, most of it used in transportation;

''(2) there is little fuel diversity in the transportation sector of the United States, making it extremely sensitive to volatile oil supplies;

''(3) rapidly rising energy prices have raised the imported oil bill of the United States to nearly $250,000,000,000 in 2004, which is a direct offshore wealth transfer from the U.S. that could otherwise be invested in a hydrogen economy to create many new jobs;

''(4) although the United States has become a more efficient and cleaner user of energy, total energy use continues to grow as the economy expands, along with total vehicle emissions;

''(5) without dramatic action, 68 percent of oil demand will come from imports by 2025;

''(6) over the next 10 years, oil imports could cost nearly $3,000,000,000,000, while protecting foreign supplies adds even more to that cost;

''(7) hydrogen and fuel cells offer the best hope of realizing more efficient, cleaner means of regaining control of the energy security of the United States, and achieving quality economic growth;

''(8) in the spirit of the Apollo project that put us on the Moon, and the practical vision that built the United States interstate highway system, the U.S. needs to commit sufficient public investment to develop and commercialize hydrogen and fuel cell technologies, in partnership with our private sector; and

''(9) economies must grow to sustain their health, and strong public investments in research and development will harness the skills of our universities, national laboratories, and innovative private industry to create the hydrogen economy.

''SEC. 4. PURPOSES.

''The purposes of this Act are—

''(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

''(2) to make critical public investments in building strong links to private industry, universities, national laboratories, and research institutions to expand innovation and industrial growth;

''(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

''(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

''(5) to create, strengthen, and protect a sustainable national energy economy.

"TITLE I—HYDROGEN AND FUEL CELLS

"SEC. 101. HYDROGEN AND FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

''(b) GOAL.—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light and heavy vehicles), utility, industrial, commercial, residential, and defense applications.

''(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on mutually supportive developmental factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

''(1) steadily increase production, distribution, and end use efficiency and reduce carbon footprints;

''(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, and other problems that emerge from research and development;

''(3) enhance sources of renewable fuels and biofuels for hydrogen production; and

''(4) enable widespread use of distributed electricity generation and storage.

''(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and university research in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

''(e) FUNDING.—

''(1) IN GENERAL.—The Secretary shall carry out the activities under this section through a competitive, merit-based review process consistent with any generally applicable Federal law (including regulations) that applies to an award of financial assistance, a contract, or another agreement.

''(2) RESEARCH CENTERS.—The Secretary may provide funds to a university-based or Federal laboratory or research center in accordance with paragraph (1) to carry out an activity under this section.

''(f) COST SHARING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of carrying out any project or activity under this section shall be 80 percent.

''(2) WAIVER OF NON-FEDERAL SHARE.—The Secretary may waive the non-Federal share of the cost of carrying out a project or activity under this section if the non-Federal share would otherwise be paid by a small business or an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), as determined by the Secretary.

"SEC. 102. TASK FORCE.

''(a) ESTABLISHMENT.—The Secretary, in cooperation with the Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce, shall establish an interagency Task Force, to be known as the 'Hydrogen and Fuel Cell Technical Task Force' to advise the Secretary in carrying out programs under this Act.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall be comprised of such representatives of the Council on Environmental Quality, the Office of Science and Technology Policy, the Council of Economic Advisors, the Environmental Protection Agency, and the National Security Council, and such other representatives of Federal agencies, conferences of governors, and regional organizations, as the Secretary, Secretary of Defense, Secretary of Transportation, and Secretary of Commerce determine to be appropriate.

''(2) VOTING.—A member of the Task Force that does not represent a Federal agency shall serve on the Task Force only in a nonvoting, advisory capacity.

''(c) DUTIES.—The Task Force shall review and make any necessary recommendations to the Secretary on implementation and conduct of programs under this Act.

''(d) TECHNICAL ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall select such number of members as the Secretary considers to be appropriate to form an independent, nonpolitical Technical Advisory Committee.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—Each member of the Technical Advisory Committee shall have scientific, technical, or industrial expertise, as determined by the Secretary.

''(B) NATIONAL LABORATORIES.—At least 1 member of the Technical Advisory Committee shall represent a national laboratory.

''(3) DUTIES.—The Technical Advisory Committee shall provide technical advice and assistance to the Task Force and the Secretary.

"SEC. 103. TECHNOLOGY TRANSFER.

''In carrying out this Act, the Secretary shall carry out programs that—

''(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

''(2) accelerate wider application of those technologies in the global market;

''(3) foster the exchange of generic, nonproprietary information; and

''(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

"SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

''(a) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this title—

''(1) $200,000,000 for fiscal year 2006;
''(2) $210,000,000 for fiscal year 2007;
''(3) $220,000,000 for fiscal year 2008;
''(4) $230,000,000 for fiscal year 2009;
''(5) $250,000,000 for fiscal year 2010;
''(6) $240,000,000 for fiscal year 2011;
''(7) $230,000,000 for fiscal year 2012;
''(8) $220,000,000 for fiscal year 2013;
''(9) $180,000,000 for fiscal year 2014; and
''(10) $120,000,000 for fiscal year 2015.

''(b) FUEL CELL TECHNOLOGIES.—There are authorized to be appropriated to carry out projects and activities relating to fuel cell technologies under this title—

''(1) $160,000,000 for fiscal year 2006;
''(2) $170,000,000 for fiscal year 2007;
''(3) $180,000,000 for fiscal year 2008;
''(4) $200,000,000 for fiscal year 2009;
''(5) $210,000,000 for fiscal year 2010;
''(6) $200,000,000 for fiscal year 2011;
''(7) $190,000,000 for fiscal year 2012;
''(8) $170,000,000 for fiscal year 2013;
''(9) $150,000,000 for fiscal year 2014; and
''(10) $100,000,000 for fiscal year 2015.

"TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

"SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department, including demonstrations involving—

''(1) light duty vehicles;
''(2) fleet delivery vans;
''(3) heavier duty vehicles;
''(4) specialty industrial and farm vehicles; and
''(5) commercial and residential portable, continuous, and backup electric power generation.

''(b) OTHER DEMONSTRATION PROGRAMS.—To develop widespread hydrogen supply and use options, and assist evolution of technology, the Secretary shall—

''(1) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

''(2) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

''(3) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

''(c) SYSTEM DEMONSTRATIONS.—

''(1) IN GENERAL.—As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

''(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under title III that—

''(i) have as a primary goal the reduction of drive energy requirements;

''(ii) after 2010, add another research and development phase to the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

''(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by domestic and international manufacturers and governments; and

''(B) designing a local distributed energy system that—

''(i) incorporates renewable hydrogen production, off-grid electricity production, and fleet applications in industrial or commercial service;

''(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

''(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

''(2) COST SHARING.—The Federal share of the cost of a project or activity carried out using funds from a grant under paragraph (1) shall not exceed 50% percent, as determined by the Secretary.

''(d) IDENTIFICATION OF NEW RESEARCH AND DEVELOPMENT REQUIREMENTS.—In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

''(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new research and development requirements that refine technological concepts, planning, and applications; and

''(2) during the second phase of the learning demonstrations under subsection (c)(1)(A)(ii), redesign subsequent research and development to incorporate those requirements.

''SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title—

''(1) $185,000,000 for fiscal year 2006;
''(2) $200,000,000 for fiscal year 2007;
''(3) $300,000,000 for fiscal year 2008;
''(4) $350,000,000 for fiscal year 2009;
''(5) $425,000,000 for fiscal year 2010;
''(6) $335,000,000 for fiscal year 2011;
''(7) $310,000,000 for fiscal year 2012;
''(8) $270,000,000 for fiscal year 2013;
''(9) $200,000,000 for fiscal year 2014; and
''(10) $100,000,000 for fiscal year 2015.

''TITLE III—TRANSITION TO MARKET

''SEC. 301. FEDERAL PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

''(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

''(3) to require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

''(b) FEDERAL LEASES AND PURCHASES.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

''(B) LEARNING DEMONSTRATION VEHICLES.—The Secretary may lease or purchase appropriate vehicles developed under the learning demonstrations program concept of the Department under title II to meet the requirement in subparagraph (A).

''(2) COSTS OF LEASES AND PURCHASES.—

''(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

''(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

''(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

''(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

''(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

''(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

''(3) EXCEPTION.—

''(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

''(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

''(i) the needs of the agency; and

''(ii) an evaluation performed by—

''(I) the Task Force; or

''(II) the Technical Advisory Committee.

''(c) ENERGY SAVINGS GOALS.—

''(1) IN GENERAL.—

''(A) REGULATIONS.—Not later than December 31, 2006, the Secretary shall—

''(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

''(ii) promulgate regulations to expand the minimum Federal fleet requirement and credit allowances for fuel cell vehicle systems under section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

''(B) REVIEW, EVALUATION, AND NEW REGULATIONS.—Not later than December 31, 2010, the Secretary shall—

''(i) review the regulations promulgated under subparagraph (A);

''(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

''(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

''(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

''(3) USE OF ENERGY SAVINGS PERFORMANCE CONTRACTS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use any energy savings performance contract under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) (including a pilot program for mobility uses in an expanded energy savings performance contract) to count toward an energy savings goal of the agency.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

''(1) $10,000,000 for fiscal year 2008;
''(2) $15,000,000 for fiscal year 2009;
''(3) $50,000,000 for fiscal year 2010;
''(4) $100,000,000 for fiscal year 2011;
''(5) $150,000,000 for fiscal year 2012;
''(6) $165,000,000 for fiscal year 2013;
''(7) $195,000,000 for fiscal year 2014; and
''(8) $200,000,000 for fiscal year 2015.

''SEC. 302. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

''(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

''(b) FEDERAL LEASES AND PURCHASES.—

''(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, portable, or micro fuel cell to meet any applicable energy savings goal described in subsection (c).

''(2) COSTS OF LEASES AND PURCHASES.—

''(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

''(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

''(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

''(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

''(3) EXCEPTION.—

''(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

''(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

''(i) the needs of the agency; and

''(ii) an evaluation performed by—

''(I) the Task Force; or

''(II) the Technical Advisory Committee of the Task Force.

''(c) ENERGY SAVINGS GOALS.—

''(1) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 301(c)(1) that is applicable to the agency.

''(2) USE OF ENERGY SAVINGS PERFORMANCE CONTRACTS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use any energy savings performance contract under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) (including a pilot program in an expanded energy savings performance contract) to count toward an energy savings goal of the agency.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

''(1) $20,000,000 for fiscal year 2006;
''(2) $50,000,000 for fiscal year 2007;
''(3) $75,000,000 for fiscal year 2008;
''(4) $100,000,000 for fiscal year 2009;
''(5) $100,000,000 for fiscal year 2010;
''(6) $100,000,000 for fiscal year 2011;
''(7) $55,000,000 for fiscal year 2012;
''(8) $50,000,000 for fiscal year 2013;
''(9) $50,000,000 for fiscal year 2014; and
''(10) $25,000,000 for fiscal year 2015.

''TITLE IV—REGULATORY MANAGEMENT

''SEC. 401. CODES AND STANDARDS.

''(a) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

''(b) EDUCATIONAL EFFORTS.—The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this title—

''(1) $4,000,000 for fiscal year 2006;
''(2) $7,000,000 for fiscal year 2007;

''(3) $8,000,000 for fiscal year 2008;
''(4) $8,000,000 for fiscal year 2009;
''(5) $10,000,000 for fiscal year 2010;
''(6) $9,000,000 for fiscal year 2011; and
''(7) $9,000,000 for fiscal year 2012.

''TITLE V—REPORTS

''SEC. 501. DEPLOYMENT OF HYDROGEN TECHNOLOGY.

''(a) SECRETARY.—Subject to subsection (c), not later than 2 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, and biannually thereafter, the Secretary shall submit to Congress—

''(1) a report describing—

''(A) any activity carried out by the Department of Energy under this Act, including a research, development, demonstration, and commercial application program for hydrogen and fuel cell technology;

''(B) measures the Secretary has taken during the preceding 2 years to support the transition of primary industry (or a related industry) to a fully-commercialized hydrogen economy;

''(C) any change made to a research, development, or deployment strategy of the Secretary relating to hydrogen and fuel cell technology to reflect the results of a learning demonstration under title II;

''(D) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

''(i) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

''(ii) 2,500,000 hydrogen-fueled vehicles by 2020;

''(E) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 can be achieved by integrating—

''(i) hydrogen activities; and

''(ii) associated targets and timetables for the development of hydrogen technologies;

''(F) any problem relating to the design, execution, or funding of a program under this Act; and

''(G) progress made toward and goals achieved in carrying out this Act and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (d) for the fiscal years covered by the report; and

''(2) a strategic plan describing—

''(A) a remedy for any problems described in paragraph (1)(D); and

''(B) any approach by which the Secretary could achieve a substantial decrease in the dependence on and consumption of natural gas and imported oil by the Federal Government, including by increasing the use of fuel cell vehicles, stationary and portable fuel cells, and hydrogen energy systems described in title III.

''(b) TASK FORCE.—Subject to subsection (c), not later than 3 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, and triennially thereafter, the Task Force shall submit to Congress a report describing—

''(1) the degree of success of each program under this Act; and

''(2) the degree to which the success of programs under this Act has led to evolution of a hydrogen economy and improved potential for economic growth.

''(c) COMBINATION OF REPORTS.—

''(1) IN GENERAL.—The Secretary may decide to combine the reports under subsections (a) and (b) before the reports are submitted to Congress, as the Secretary determines appropriate.

''(2) REQUIREMENTS.—If the Secretary decides to combine the reports under paragraph (1), the Secretary shall—

''(A) not later than 2 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, provide notice of the decision to the Task Force; and

''(B) not later than 3 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, and triennially thereafter, submit the combined reports to Congress.

''(3) TASK FORCE.—Not later than 180 days after receiving notice from the Secretary under paragraph (2)(A), and triennially thereafter, the Task Force shall submit to the Secretary a report in accordance with subsection (b).

''(d) NATIONAL ACADEMY OF SCIENCES.—

''(1) IN GENERAL.—Not later than September 30, 2007, and triennially thereafter, the National Academy of Sciences shall conduct and submit to the Secretary—

''(A) the results of a review of the projects and activities carried out under this Act; and

''(B) recommendations for any new authorities or resources needed to achieve strategic goals.

''(2) REAUTHORIZATION.—The Secretary shall use the results of reviews conducted under paragraph (1) in proposing to Congress any legislative changes relating to reauthorization of this Act.

''SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this title $900,000 for each of fiscal years 2006 through 2015.

''TITLE VI—TERMINATION OF AUTHORITY

''SEC. 601. TERMINATION OF AUTHORITY.

''This Act and the authority provided by this Act terminate on September 30, 2015.''.

SEC. 3. TAX INCENTIVES TO BUILD THE HYDROGEN ECONOMY.

It is the sense of the Senate that Congress should provide any necessary tax incentives to encourage investment in and production and use of hydrogen and fuel cell systems during critical stages of market growth, including—

(1) a hydrogen fuel cell motor vehicle credit;

(2) a credit for the installation of hydrogen fuel cell motor vehicle fueling stations;

(3) a credit for residential fuel cell property; and

(4) a credit for business installation of qualified fuel cells.

THE HYDROGEN AND FUEL CELL TECHNOLOGY ACT OF 2005

Mr. AKAKA. Mr. President, I rise today in support of the Hydrogen and Fuel Cell Technology Act of 2005, a bill to amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990. A reauthorization of the Matsunaga Act is badly needed. I have introduced bills in the 106th Congress, in the 107th Congress jointly with my friend Senator HARKIN, and in the 108th Congress to reauthorize the essential hydrogen research and development programs in the Department of Energy. The core provisions of these bills were included in each of the omnibus energy bills, whether we were in the majority or in the minority, suggesting widespread, bipartisan agreement that we need a robust hydrogen program for the future.

As a founding member of the Senate's Hydrogen and Fuel Cell Caucus, I have worked with my colleagues to draft this bill and am pleased to be an original cosponsor. The caucus has heard from a wide variety of interest groups, engineers, and scientists providing input on the potential for a ''hydrogen economy.'' The caucus, under the able coleadership of my colleagues Senator DORGAN and Senator GRAHAM, has actively solicited input from fuel cell producers anti councils, automobile manufacturers, oil and gas companies, utilities, university research institutes, the Department of Energy, and national associations. The recommendations of the National Commission on Energy Policy and the National Academy of Sciences were instrumental in developing this bill.

I am more convinced than ever that we need to move now to reauthorize the Matsunaga Act and to refine and enhance the Department of Energy's responsibilities while maintaining strong oversight over the progress of the activities. We cannot delay the move to a ''hydrogen economy.''

This bill does several things that are important for the management of hydrogen programs in the Department of Energy and will help move the nation toward using hydrogen as an energy source in our daily lives. It provides greater focus for the hydrogen fuel cell technology research and development programs without losing the focus on renewable sources of hydrogen. It emphasizes factors that are critical to the development of hydrogen infrastructure and the supply of vehicles and electric power. It directs the Secretary to carry out activities to improve technology with the goal of cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and the end uses of hydrogen. The bill authorizes $200 million for hydrogen supply and $160 million for fuel cell technologies in fiscal year 2006. It emphasizes the importance of enhancing sources of renewable fuels and biofuels for hydrogen production, a factor that is critical to remote areas and island states such as Hawaii where we need local sources of energy.

This bill is a realistic one, providing specific footpaths to the hydrogen economy domestically and internationally. The bill acknowledges that transportation and the availability of reasonably priced cars may be the first market break through for the hydrogen economy.

Title II authorizes demonstration programs through the Department of Energy for fuel cell systems for mobile, portable, and stationary uses. Demonstrations are a critical component of moving a product to market. Title III of the bill, ''Transition to Market,'' succinctly states the goal of this section. Section 301 authorizes Federal procurement of fuel cell vehicles and hydrogen energy systems. This provision is intended to stimulate the market by requiring the Federal Government, the largest single user of energy in the United States, to adopt hydrogen technologies as soon as practicable. Energy savings are an important part of this title. The Department is required to collect data on energy savings as a result of this program and

to evaluate whether the program is achieving energy savings.

Lastly, this bill provides important directions to the Secretary to address the development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells. This provision recognizes the importance of public acceptance of hydrogen as a safe and secure energy source; and it recognizes the industry's needs for standards of safety codes and standards for hydrogen energy systems whether stationary, mobile, or portable. The bill does not require the standards to be developed ''in-house'' within the Department of Energy, but importantly authorizes the Secretary of Energy to enter into cooperative agreements, grants, and contracts with industry groups and with the cooperation of the Federal interagency Hydrogen and Fuel Cell Technical Task Force.

Mr. President, I urge my colleagues in the Senate to support this bill.

By Mr. DEWINE (for himself, Mr. KENNEDY, Mr. LUGAR, Mr. HARKIN, Ms. COLLINS, Mr. DURBIN, Mr. SMITH, Mr. DODD, Mr. CORNYN, Mr. LAUTENBERG, Mr. MCCAIN, Mr. REED, Ms. SNOWE, Ms. MURKOWSKI, Mr. CHAFEE, and Mr. SPECTER):

S. 666. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, today I join our colleagues Senators KENNEDY, LUGAR, COLLINS, SMITH, CORNYN, MCCAIN, SNOWE, HARKIN, DURBIN, DODD, LAUTENBERG, REED, MURKOWSKI, CHAFEE and SPECTER to introduce a bill designed to help protect consumers—especially children—from the dangers of tobacco. Simply, our bill would finally give the Food and Drug Administration (FDA) the authority it needs to effectively regulate the manufacture and sale of tobacco products.

I say finally, because there are some tobacco proponents who would have you believe that the Master Settlement Agreement, which was signed in 1998 by 46 states, resolved the issue of tobacco use by imposing advertising restrictions.

I say finally, because my colleagues—first Senator MCCAIN, then Senator FRIST, then Senator GREGG, and then Senator KENNEDY and I—have been seeking FDA regulation of tobacco products since the mid- to late-1990's.

And, I say finally, because the bill that we are introducing today is the product of long and hard discussions and negotiations that I have had with Senator KENNEDY and public interest groups and industry. Our bill has the support of the Campaign for Tobacco Free Kids, Philip Morris, the American Heart Association, the American Lung Association, and the American Cancer Association. It is a bill that I am proud of—one that is worthy of the Senate's consideration, and one that will provide the FDA—finally—with strong and effective authority over the regulation of tobacco products.

The introduction of this bill couldn't come at a better time. The budget is on the Floor, and people anticipate the slowed-spending in Medicaid, and the economic burden of cigarettes is enormous. According to the 2004 Surgeon General's Report entitled The Health Consequences of Smoking, from 1995 to 1999, smoking-related costs totaled $157.7 billion each year. This figure includes more than $75 billion in direct medical costs for adults (things like ambulatory care, hospital care, prescription drugs, nursing homes, and other care), about $82 billion in indirect costs from lost productivity, and $366 million for neonatal care. This equals an estimated $3,000 per smoker, per year.

In a budget year when Congress is looking to find savings in Medicaid—in the ballpark of $15 billion over 5 years—Congress should look at the cost savings that would be made possible by FDA regulation of tobacco. We already know that doing nothing costs our country, our taxpayers, and our employers and employees $157 billion a year. Isn't it time that the federal government consider that it has a responsibility to find savings through the regulation of tobacco?

Not having access to all the information about this deadly product makes no sense and it is something that needs to change. By introducing this bill, we are saying that. we are not going to let tobacco manufacturers have free reign over their markets and consumers any more. We are taking a step toward making sure the public gets adequate information about whether to continue to smoke or even to start smoking in the first place. With this bill, we are not just saying ''buyer beware.'' We are saying ''tobacco companies be honest.'' We are saying ''tobacco companies stop marketing to innocent children and tell consumers about what they are really buying.''

Ultimately, our bill would give consumers the information they need to make healthier and better choices about tobacco use. I have faith that informed consumers make better choices, and those choices could lead to cost-savings for the society overall.

Our bill would give the FDA the authority to regulate a product that has gone unregulated for far too long—a product that for the past century has not revealed its ingredients to the consumer—a product whose manufacturing facilities are not inspected or accountable for following good manufacturing practices—a product that is never reviewed or approved before reaching the hands of 40 million consumers, many of whom are just children. Mr. President, Congress should put an end to this. Congress should put an end to the marketing of tobacco products to our children. Congress should put an end to the ability of tobacco companies to make claims, whether they are implied claims or direct claims, about their products. Congress should put an end to tobacco companies putting any ingredient they want into their products without disclosing it to the consumer. It is time Congress gives the FDA authority to it needs to fix these problems.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Family Smoking Prevention and Tobacco Control Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use

by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2002, the tobacco industry spent more than $12,466,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price-sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615–44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the First Amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe that ''low tar'' and ''light'' cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking ''low tar'' and ''light'' cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from ''low tar'' and ''light'' cigarettes and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in insuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express

or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be approved in advance of marketing, and to require that the evidence relied on to support approval of these products is rigorous.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. SEVERABILITY.

If any provision of this Act, the amendments made by this Act, or the application of any provision of this Act to any person or circumstance is held to be invalid, the remainder of this Act, the amendments made by this Act, and the application of the provisions of this Act to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(nn)(1) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

''(2) The term 'tobacco product' does not mean—

''(A) a product in the form of conventional food (including water and chewing gum), a product represented for use as or for use in a conventional food, or a product that is intended for ingestion in capsule, tablet, softgel, or liquid form; or

''(B) an article that is approved or is regulated as a drug by the Food and Drug Administration.

''(3) The products described in paragraph (2)(A) shall be subject to chapter IV or chapter V of this Act and the articles described in paragraph (2)(B) shall be subject to chapter V of this Act.

''(4) A tobacco product may not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetics, medical device, or a dietary supplement).''.

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

''CHAPTER IX—TOBACCO PRODUCTS

''SEC. 900. DEFINITIONS.

''In this chapter:

''(1) ADDITIVE.—The term 'additive' means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring, coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

''(2) BRAND.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

''(3) CIGARETTE.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

''(4) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

''(5) COMMERCE.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

''(6) COUNTERFEIT TOBACCO PRODUCT.—The term 'counterfeit tobacco product' means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

''(7) DISTRIBUTOR.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

''(8) ILLICIT TRADE.—The term 'illicit trade' means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

''(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

''(10) LITTLE CIGAR.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

''(11) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

''(12) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

''(13) RETAILER.—The term 'retailer' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

''(14) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

''(15) SMOKE CONSTITUENT.—The term 'smoke constituent' means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

''(16) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

''(17) STATE.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

''(18) TOBACCO PRODUCT MANUFACTURER.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

''(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

''(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

''(19) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

''SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

''(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

''(2) a claim is made for such products under section 201(g)(1)(C) or 201(h)(3);

other than modified risk tobacco products approved in accordance with section 911.

''(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

''(c) SCOPE.—

''(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

''(2) LIMITATION OF AUTHORITY.—

''(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

''(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

''(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

''SEC. 902. ADULTERATED TOBACCO PRODUCTS.

''A tobacco product shall be deemed to be adulterated if—

''(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

''(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

''(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

''(4) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

''(5)(A) it is required by section 910(a) to have premarket approval and does not have an approved application in effect; or

''(B) it is in violation of the order approving such an application;

''(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

''(7) it is in violation of section 911.

''SEC. 903. MISBRANDED TOBACCO PRODUCTS.

''(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

''(1) if its labeling is false or misleading in any particular;

''(2) if in package form unless it bears a label containing—

''(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

''(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

''(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

''(D) the statement required under section 921(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

''(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

''(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

''(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

''(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

''(7) if, in the case of any tobacco product distributed or offered for sale in any State—

''(A) its advertising is false or misleading in any particular; or

''(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

''(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

''(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

''(B) a brief statement of—

''(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

''(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

''(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

''(10) if there was a failure or refusal—

''(A) to comply with any requirement prescribed under section 904 or 908; or

''(B) to furnish any material or information required under section 909.

''(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

''SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

''(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

''(1) A listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand.

''(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(a)(4) of the Federal Cigarette Labeling and Advertising Act.

''(3) A listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 2 years after the date of enactment of this chapter, the manufacturer, importer, or agent shall comply with regulations promulgated under section 916 in reporting information under this paragraph, where applicable.

''(4) All documents developed after the date of enactment of the Family Smoking Prevention and Tobacco Control Act that relate to health, toxicological, behavioral, or

physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

''(b) DATA SUBMISSION.—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

''(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

''(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

''(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

''(c) TIME FOR SUBMISSION.—

''(1) IN GENERAL.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

''(2) DISCLOSURE OF ADDITIVE.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

''(3) DISCLOSURE OF OTHER ACTIONS.—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

''(d) DATA LIST.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

''(2) CONSUMER RESEARCH.—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

''(e) DATA COLLECTION.—Not later than 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

''SEC. 905. ANNUAL REGISTRATION.

''(a) DEFINITIONS.—In this section:

''(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

''(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

''(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

''(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

''(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

''(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

''(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

''(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

''(h) FOREIGN ESTABLISHMENTS SHALL REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

''(i) REGISTRATION INFORMATION.—

''(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

''(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

''(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

''(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

''(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

''(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

''(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

''(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of

the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

''(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

''(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

''(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2003, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

''(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003, that is in compliance with the requirements of this Act; and

''(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

''(2) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 15 months after such date of enactment.

''(3) EXEMPTIONS.—

''(A) IN GENERAL.—The Secretary may by regulation, exempt from the requirements of this subsection tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

''(i) such modification would be a minor modification of a tobacco product authorized for sale under this Act;

''(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

''(iii) an exemption is otherwise appropriate.

''(B) REGULATIONS.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

''SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

''(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

''(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

''(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

''(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

''(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904, 907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

''(d) RESTRICTIONS.—

''(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

''(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No restrictions under paragraph (1) may—

''(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

''(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

''(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products shall be considered as adult written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult written publications.

''(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

''(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

''(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Good manufacturing practices may include the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

''(B) REQUIREMENTS.—The Secretary shall—

''(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

''(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

''(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

''(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

''(2) EXEMPTIONS; VARIANCES.—

''(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

''(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

''(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

''(iii) contain such other information as the Secretary shall prescribe.

''(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products

Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

''(i) the date the petition was submitted to the Secretary under subparagraph (A); or

''(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

''(C) APPROVAL.—The Secretary may approve—

''(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

''(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

''(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

''(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

''(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

''(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

''SEC. 907. TOBACCO PRODUCT STANDARDS.

''(a) IN GENERAL.—

''(1) SPECIAL RULE FOR CIGARETTES.—A cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this paragraph.

''(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (b).

''(3) TOBACCO PRODUCT STANDARDS.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

''(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

''(i) for the reduction of nicotine yields of the product;

''(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

''(iii) relating to any other requirement under (B);

''(B) shall, where appropriate for the protection of the public health, include—

''(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

''(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

''(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

''(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

''(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

''(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

''(5) PERIODIC RE-EVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

''(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

''(A) use personnel, facilities, and other technical support available in other Federal agencies;

''(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

''(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

''(b) ESTABLISHMENT OF STANDARDS.—

''(1) NOTICE.—

''(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

''(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

''(i) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

''(ii) set forth proposed findings with respect to the risk of illness or injury that the tobacco product standard is intended to reduce or eliminate; and

''(iii) invite interested persons to submit an existing tobacco product standard for the tobacco product, including a draft or proposed tobacco product standard, for consideration by the Secretary.

''(C) STANDARD.—Upon a determination by the Secretary that an additive, constituent (including smoke constituent), or other component of the product that is the subject of the proposed tobacco product standard is harmful, it shall be the burden of any party challenging the proposed standard to prove that the proposed standard will not reduce or eliminate the risk of illness or injury.

''(D) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

''(E) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

''(F) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

''(2) PROMULGATION.—

''(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a tobacco product standard and after consideration of such comments and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

''(i) promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

''(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

''(B) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

''(3) POWER RESERVED TO CONGRESS.—Because of the importance of a decision of the

Secretary to issue a regulation establishing a tobacco product standard—

''(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll your own tobacco products; or

''(B) requiring the reduction of nicotine yields of a tobacco product to zero,

Congress expressly reserves to itself such power.

''(4) AMENDMENT; REVOCATION.—

''(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a tobacco product standard.

''(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

''(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary may—

''(A) on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard; or

''(B) upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to the Tobacco Products Scientific Advisory Committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

''SEC. 908. NOTIFICATION AND OTHER REMEDIES.

''(a) NOTIFICATION.—If the Secretary determines that—

''(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

''(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

''(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

''(c) RECALL AUTHORITY.—

''(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

''(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

''(B) NOTICE.—An amended order under subparagraph (A)—

''(i) shall not include recall of a tobacco product from individuals; and

''(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

''(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

''SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

''(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

''(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

''(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

''(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

''(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

''(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

''(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

''(b) REPORTS OF REMOVALS AND CORRECTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

''(A) to reduce a risk to health posed by the tobacco product; or

''(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

''(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

''SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.

''(a) IN GENERAL.—

''(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term 'new tobacco product' means—

''(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of June 1, 2003; or

''(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after June 1, 2003.

''(2) PREMARKET APPROVAL REQUIRED.—

''(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any new tobacco product is required unless—

''(i) the manufacturer has submitted a report under section 905(j); and

''(ii) the Secretary has issued an order that the tobacco product—

''(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2003; and

''(II)(aa) is in compliance with the requirements of this Act; or

''(bb) is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

''(B) APPLICATION TO CERTAIN POST JUNE 1, 2003 PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

''(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2003, and prior to the date that is 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

''(ii) for which a report was submitted under section 905(j) within such 15-month period, until the Secretary issues an order that the tobacco product is not substantially equivalent.

''(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

''(A) IN GENERAL.—In this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

''(i) has the same characteristics as the predicate tobacco product; or

''(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

''(B) CHARACTERISTICS.—In subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

''(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

''(4) HEALTH INFORMATION.—

''(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

''(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

''(b) APPLICATION.—

''(1) CONTENTS.—An application for premarket approval shall contain—

''(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

''(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

''(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

''(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

''(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

''(F) specimens of the labeling proposed to be used for such tobacco product; and

''(G) such other information relevant to the subject matter of the application as the Secretary may require.

''(2) REFERENCE TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

''(A) may, on the Secretary's own initiative; or

''(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

''(c) ACTION ON APPLICATION.—

''(1) DEADLINE.—

''(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

''(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

''(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

''(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

''(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

''(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

''(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

''(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

''(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

''(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

''(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(5) BASIS FOR ACTION.—

''(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

''(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

''(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

''(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

''(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

''(B) that the application contained or was accompanied by an untrue statement of a material fact;

''(C) that the applicant—

''(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

''(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

''(iii) has not complied with the requirements of section 905;

''(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time

after receipt of written notice from the Secretary of nonconformity;

''(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

''(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

''(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

''(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

''(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

''(1) in person by any officer or employee of the department designated by the Secretary; or

''(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

''(f) RECORDS.—

''(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an approval of an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such approval.

''(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

''SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

''(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless approval of an application filed pursuant to subsection (d) is effective with respect to such product.

''(b) DEFINITIONS.—In this section:

''(1) MODIFIED RISK TOBACCO PRODUCT.—The term 'modified risk tobacco product' means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

''(2) SOLD OR DISTRIBUTED.—

''(A) IN GENERAL.—With respect to a tobacco product, the term 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products' means a tobacco product—

''(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

''(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

''(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

''(III) the tobacco product or its smoke does not contain or is free of a substance;

''(ii) the label, labeling, or advertising of which uses the descriptors 'light', 'mild', or 'low' or similar descriptors; or

''(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

''(B) LIMITATION.—No tobacco product shall be considered to be 'sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products', except as described in subparagraph (A).

''(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section and is subject to the requirements of chapter V.

''(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

''(1) a description of the proposed product and any proposed advertising and labeling;

''(2) the conditions for using the product;

''(3) the formulation of the product;

''(4) sample product labels and labeling;

''(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

''(6) data and information on how consumers actually use the tobacco product; and

''(7) such other information as the Secretary may require.

''(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

''(f) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall refer to an advisory committee any application submitted under this subsection.

''(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to an advisory committee under paragraph (1), the advisory committee shall report its recommendations on the application to the Secretary.

''(g) APPROVAL.—

''(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall approve an application for a modified risk tobacco product filed under this section only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

''(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

''(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

''(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

''(A) IN GENERAL.—The Secretary may approve an application for a tobacco product that has not been approved as a modified risk tobacco product pursuant to paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

''(i) the approval of the application would be appropriate to promote the public health;

''(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b)(2) is limited to an explicit or implicit representation that such tobacco product or its smoke contains or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;

''(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

''(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is anticipated in subsequent studies.

''(B) ADDITIONAL FINDINGS REQUIRED.—In order to approve an application under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

''(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

''(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the anticipated overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

''(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers

will not be misled into believing that the product—

''(I) is or has been demonstrated to be less harmful; or

''(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

''(iv) approval of the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

''(C) CONDITIONS OF APPROVAL.—

''(i) IN GENERAL.—Applications approved under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

''(ii) AGREEMENTS BY APPLICANT.—Applications approved under this paragraph shall be conditioned on the applicant's agreement to conduct post-market surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the application approval on consumer perception, behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the approval was based in accordance with a protocol approved by the Secretary.

''(iii) ANNUAL SUBMISSION.—The results of such post-market surveillance and studies described in clause (ii) shall be submitted annually.

''(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

''(A) the scientific evidence submitted by the applicant; and

''(B) scientific evidence and other information that is available to the Secretary.

''(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

''(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

''(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

''(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

''(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

''(E) comments, data, and information submitted by interested persons.

''(h) ADDITIONAL CONDITIONS FOR APPROVAL.—

''(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the approval of an application under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

''(2) COMPARATIVE CLAIMS.—

''(A) IN GENERAL.—The Secretary may require for the approval of an application under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

''(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

''(3) LABEL DISCLOSURE.—

''(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

''(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

''(4) TIME.—The Secretary shall limit an approval under subsection (g)(1) for a specified period of time.

''(5) ADVERTISING.—The Secretary may require that an applicant, whose application has been approved under this subsection, comply with requirements relating to advertising and promotion of the tobacco product.

''(i) POSTMARKET SURVEILLANCE AND STUDIES.—

''(1) IN GENERAL.—The Secretary shall require that an applicant under subsection (g)(1) conduct post market surveillance and studies for a tobacco product for which an application has been approved to determine the impact of the application approval on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the approval was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of post-market surveillance and studies shall be submitted to the Secretary on an annual basis.

''(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

''(j) WITHDRAWAL OF APPROVAL.—The Secretary, after an opportunity for an informal hearing, shall withdraw the approval of an application under this section if the Secretary determines that—

''(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

''(2) the application failed to include material information or included any untrue statement of material fact;

''(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

''(A) a tobacco product standard is established pursuant to section 907;

''(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

''(C) any postmarket surveillance or studies reveal that the approval of the application is no longer consistent with the protection of the public health;

''(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or (i); or

''(5) the applicant failed to meet a condition imposed under subsection (h).

''(k) CHAPTER IV OR V.—A product approved in accordance with this section shall not be subject to chapter IV or V.

''(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

''(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

''(A) establish minimum standards for scientific studies needed prior to approval to show that a substantial reduction in morbidity or mortality among individual tobacco users is likely;

''(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

''(C) establish minimum standards for post market studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

''(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception; and

''(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product.

''(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

''(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

''(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and for which the applicant seeks approval as a modified risk tobacco product under this section.

''(m) DISTRIBUTORS.—No distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

''SEC. 912. JUDICIAL REVIEW.

''(a) RIGHT TO REVIEW.—

''(1) IN GENERAL.—Not later than 30 days after—

''(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

''(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

''(2) REQUIREMENTS.—

''(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

''(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

''(i) the record of the proceedings on which the regulation or order was based; and

''(ii) a statement of the reasons for the issuance of such a regulation or order.

''(C) DEFINITION OF RECORD.—In this section, the term 'record' means—

''(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

''(ii) all information submitted to the Secretary with respect to such regulation or order;

''(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

''(iv) any hearing held with respect to such regulation or order; and

''(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

''(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

''(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

''(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

''(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

''SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

''The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

''SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

''(a) JURISDICTION.—

''(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

''(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

''(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

''(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

''(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

''SEC. 915. CONGRESSIONAL REVIEW PROVISIONS.

''In accordance with section 801 of title 5, United States Code, Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section and section 801 do not apply to the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act.

''SEC. 916. REGULATION REQUIREMENT.

''(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

''(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and sub-brand that the Secretary determines should be tested to protect the public health. The regulations may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco related disease.

''(c) AUTHORITY.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

''SEC. 917. PRESERVATION OF STATE AND LOCAL AUTHORITY.

''(a) IN GENERAL.—

''(1) PRESERVATION.—Nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

''(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in paragraph (1) and subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket approval, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

''(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 554(b)(4) of title 5, United States Code, shall be treated as trade secret and confidential information by the State.

''(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''SEC. 918. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 11-member advisory committee, to be known as the 'Tobacco Products Scientific Advisory Committee'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—

''(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

''(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

''(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

''(iii) 1 individual as a representative of the general public;

''(iv) 1 individual as a representative of the interests in the tobacco manufacturing industry; and

''(v) 1 individual as a representative of the interests of the tobacco growers.

''(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv) and (v) of subparagraph (A) shall serve as consultants to those described in clauses (i)

through (iii) of subparagraph (A) and shall be nonvoting representatives.

''(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

''(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

''(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

''(1) as provided in this chapter;

''(2) on the effects of the alteration of the nicotine yields from tobacco products;

''(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

''(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

''(d) COMPENSATION; SUPPORT; FACA.—

''(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

''(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

''(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

''SEC. 919. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.

''The Secretary shall—

''(1) at the request of the applicant, consider designating nicotine replacement products as fast track research and approval products within the meaning of section 506;

''(2) consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence; and

''(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention.

''SEC. 920. USER FEE.

''(a) ESTABLISHMENT OF QUARTERLY USER FEE.—The Secretary shall assess a quarterly user fee with respect to every quarter of each fiscal year commencing fiscal year 2005, calculated in accordance with this section, upon each manufacturer and importer of tobacco products subject to this chapter.

''(b) FUNDING OF FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary shall make user fees collected pursuant to this section available to pay, in each fiscal year, for the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter.

''(c) ASSESSMENT OF USER FEE.—

''(1) AMOUNT OF ASSESSMENT.—Except as provided in paragraph (4), the total user fees assessed each year pursuant to this section shall be sufficient, and shall not exceed what is necessary, to pay for the costs of the activities described in subsection (b) for each fiscal year.

''(2) ALLOCATION OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

''(A) IN GENERAL.—Subject to paragraph (3), the total user fees assessed each fiscal year with respect to each class of importers and manufacturers shall be equal to an amount that is the applicable percentage of the total costs of activities of the Food and Drug Administration described in subsection (b).

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the applicable percentage for a fiscal year shall be the following:

''(i) 92.07 percent shall be assessed on manufacturers and importers of cigarettes;

''(ii) 0.05 percent shall be assessed on manufacturers and importers of little cigars;

''(iii) 7.15 percent shall be assessed on manufacturers and importers of cigars other than little cigars;

''(iv) 0.43 percent shall be assessed on manufacturers and importers of snuff;

''(v) 0.10 percent shall be assessed on manufacturers and importers of chewing tobacco;

''(vi) 0.06 percent shall be assessed on manufacturers and importers of pipe tobacco; and

''(vii) 0.14 percent shall be assessed on manufacturers and importers of roll-your-own tobacco.

''(3) DISTRIBUTION OF FEE SHARES OF MANUFACTURERS AND IMPORTERS EXEMPT FROM USER FEE.—Where a class of tobacco products is not subject to a user fee under this section, the portion of the user fee assigned to such class under subsection (d)(2) shall be allocated by the Secretary on a pro rata basis among the classes of tobacco products that are subject to a user fee under this section. Such pro rata allocation for each class of tobacco products that are subject to a user fee under this section shall be the quotient of—

''(A) the sum of the percentages assigned to all classes of tobacco products subject to this section; divided by

''(B) the percentage assigned to such class under paragraph (2).

''(4) ANNUAL LIMIT ON ASSESSMENT.—The total assessment under this section—

''(A) for fiscal year 2005 shall be $85,000,000;

''(B) for fiscal year 2006 shall be $175,000,000;

''(C) for fiscal year 2007 shall be $300,000,000; and

''(D) for each subsequent fiscal year, shall not exceed the limit on the assessment imposed during the previous fiscal year, as adjusted by the Secretary (after notice, published in the Federal Register) to reflect the greater of—

''(i) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending on June 30 of the preceding fiscal year for which fees are being established; or

''(ii) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

''(5) TIMING OF USER FEE ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under subsection (f) during each quarter of each fiscal year. Such notifications shall occur not earlier than 3 months prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made not later than 60 days after each such notification.

''(d) DETERMINATION OF USER FEE BY COMPANY MARKET SHARE.—

''(1) IN GENERAL.—The user fee to be paid by each manufacturer or importer of a given class of tobacco products shall be determined in each quarter by multiplying—

''(A) such manufacturer's or importer's market share of such class of tobacco products; by

''(B) the portion of the user fee amount for the current quarter to be assessed on manufacturers and importers of such class of tobacco products as determined under subsection (e).

''(2) NO FEE IN EXCESS OF MARKET SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the market share of such manufacturer or importer.

''(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

''(1) IN GENERAL.—The calculation of gross domestic volume of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary using information provided by manufacturers and importers pursuant to subsection (f), as well as any other relevant information provided to or obtained by the Secretary.

''(2) MEASUREMENT.—For purposes of the calculations under this subsection and the information provided under subsection (f) by the Secretary, gross domestic volume shall be measured by—

''(A) in the case of cigarettes, the number of cigarettes sold;

''(B) in the case of little cigars, the number of little cigars sold;

''(C) in the case of large cigars, the number of cigars weighing more than 3 pounds per thousand sold; and

''(D) in the case of other classes of tobacco products, in terms of number of pounds, or fraction thereof, of these products sold.

''(f) MEASUREMENT OF GROSS DOMESTIC VOLUME.—

''(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit to the Secretary a certified copy of each of the returns or forms described by this paragraph that are required to be filed with a Government agency on the same date that those returns or forms are filed, or required to be filed, with such agency. The returns and forms described by this paragraph are those returns and forms related to the release of tobacco products into domestic commerce, as defined by section 5702(k) of the Internal Revenue Code of 1986, and the repayment of the taxes imposed under chapter 52 of such Code (ATF Form 500.24 and United States Customs Form 7501 under currently applicable regulations).

''(2) PENALTIES.—Any person that knowingly fails to provide information required under this subsection or that provides false information under this subsection shall be subject to the penalties described in section 1003 of title 18, United States Code. In addition, such person may be subject to a civil penalty in an amount not to exceed 2 percent of the value of the kind of tobacco products manufactured or imported by such person during the applicable quarter, as determined by the Secretary.

''(h) EFFECTIVE DATE.—The user fees prescribed by this section shall be assessed in fiscal year 2005, based on domestic sales of tobacco products during fiscal year 2004 and shall be assessed in each fiscal year thereafter.''.

SEC. 102. INTERIM FINAL RULE.

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register an interim final rule regarding cigarettes and smokeless tobacco, which is hereby deemed to be in compliance with the Administrative Procedures Act and other applicable law.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the interim final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615–44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection;

(B) strike Subpart C—Labeling and section 897.32(c); and

(C) become effective not later than 1 year after the date of enactment of this Act.

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with the Administrative Procedures Act.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with the Administrative Procedures Act, the regulation promulgated pursuant to this section.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents'' (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled ''Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act'' (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled ''Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination'' (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting ''tobacco product,'' after ''device,'';

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (c), by inserting ''tobacco product,'' after ''device,'';

(4) in subsection (e), by striking ''515(f), or 519'' and inserting ''515(f), 519, or 909'';

(5) in subsection (g), by inserting ''tobacco product,'' after ''device,'';

(6) in subsection (h), by inserting ''tobacco product,'' after ''device,'';

(7) in subsection (j), by striking ''708, or 721'' and inserting ''708, 721, 904, 905, 906, 907, 908, 909, or section 921(b)'';

(8) in subsection (k), by inserting ''tobacco product,'' after ''device,'';

(9) by striking subsection (p) and inserting the following:

''(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(2).'';

(10) by striking subsection (q)(1) and inserting the following:

''(q)(1) The failure or refusal—

''(A) to comply with any requirement prescribed under section 518, 520(g), 903(b)(8), or 908, or condition prescribed under section 903(b)(6)(B)(ii)(II);

''(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or section 921; or

''(C) to comply with a requirement under section 522 or 913.'';

(11) in subsection (q)(2), by striking ''device,'' and inserting ''device or tobacco product,'';

(12) in subsection (r), by inserting ''or tobacco product'' after ''device'' each time that it appears; and

(13) by adding at the end the following:

''(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

''(bb) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

''(cc)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

''(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

''(dd) The charitable distribution of tobacco products.

''(ee) The failure of a manufacturer or distributor to notify the Attorney General of their knowledge of tobacco products used in illicit trade.''.

(c) SECTION 303.—Section 303 (21 U.S.C. 333(f)) is amended in subsection (f)—

(1) by striking the subsection heading and inserting the following:

''(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—'';

(2) in paragraph (1)(A), by inserting ''or tobacco products'' after ''devices'';

(3) in paragraph (2)(C), by striking ''paragraph (3)(A)'' and inserting ''paragraph (4)(A)'';

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

''(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).'';

(5) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking ''assessed'' the first time it appears and inserting ''assessed, or a no-tobacco-sale order may be imposed,''; and

(ii) by striking ''penalty'' and inserting ''penalty, or upon whom a no-tobacco-order is to be imposed,'';

(B) in subparagraph (B)—

(i) by inserting after ''penalty,'' the following: ''or the period to be covered by a no-tobacco-sale order,''; and

(ii) by adding at the end the following: ''A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.''; and

(C) by adding at the end, the following:

''(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.'';

(6) in paragraph (5) as so redesignated—

(A) by striking ''(3)(A)'' as redesignated, and inserting ''(4)(A)'';

(B) by inserting ''or the imposition of a no-tobacco-sale order'' after ''penalty'' the first 2 places it appears; and

(C) by striking ''issued.'' and inserting ''issued, or on which the no-tobacco-sale order was imposed, as the case may be.''; and

(7) in paragraph (6), as so redesignated, by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking ''and'' before ''(D)''; and

(B) by striking ''device.'' and inserting the following: '', (E) Any adulterated or misbranded tobacco product.'';

(2) in subsection (d)(1), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (g)(1), by inserting ''or tobacco product'' after ''device'' each place it appears; and

(4) in subsection (g)(2)(A), by inserting ''or tobacco product'' after ''device'' each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end thereof the following:

''(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers within that State in connection with the enforcement of this Act.''.

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting ''tobacco product,'' after ''device,'' each place it appears; and

(2) by inserting ''tobacco products,'' after ''devices,'' each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting ''tobacco products,'' after ''devices,'' each place it appears;

(2) in subsection (a)(1)(B), by inserting ''or tobacco product'' after ''restricted devices'' each place it appears; and

(3) in subsection (b), by inserting ''tobacco product,'' after ''device,''.

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting ''tobacco products,'' after ''devices,''.

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting ''or tobacco product'' after ''device''.

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting ''tobacco products,'' after ''devices,'' the first time it appears;

(B) by inserting ''or section 905(j)'' after ''section 510''; and

(C) by striking ''drugs or devices'' each time it appears and inserting ''drugs, devices, or tobacco products'';

(2) in subsection (e)(1), by inserting ''tobacco product,'' after ''device,''; and

(3) by adding at the end the following:

''(p)(1) Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

''(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

''(B) the public health implications of such exports, including any evidence of a negative public health impact; and

''(C) recommendations or assessments of policy alternatives available to Congress and the Executive Branch to reduce any negative public health impact caused by such exports.

''(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection.''.

(k) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking ''and'' after ''cosmetics,''; and

(2) inserting a comma and ''and tobacco products'' after ''devices''.

(l) GUIDANCE AND EFFECTIVE DATES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance—

(A) defining the term ''repeated violation'', as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time at a particular retail outlet that constitute a repeated violation;

(B) providing for timely and effective notice to the retailer of each alleged violation at a particular retail outlet;

(C) providing for an expedited procedure for the administrative appeal of an alleged violation;

(D) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(E) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(F) providing that good faith reliance on the presentation of a false government issued photographic identification that contains a date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(i) adopting and enforcing a written policy against sales to minors;

(ii) informing its employees of all applicable laws;

(iii) establishing disciplinary sanctions for employee noncompliance; and

(iv) requiring its employees to verify age by way of photographic identification or electronic scanning device.

(2) GENERAL EFFECTIVE DATE.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect upon the issuance of guidance described in paragraph (1).

(3) SPECIAL EFFECTIVE DATE.—The amendments made by paragraph (2) of subsection (c) shall take effect on the date of enactment of this Act.

TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

''SEC. 4. LABELING.

''(a) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

'WARNING: Cigarettes are addictive'.
'WARNING: Tobacco smoke can harm your children'.
'WARNING: Cigarettes cause fatal lung disease'.
'WARNING: Cigarettes cause cancer'.
'WARNING: Cigarettes cause strokes and heart disease'.
'WARNING: Smoking during pregnancy can harm your baby'.
'WARNING: Smoking can kill you'.
'WARNING: Tobacco smoke causes fatal lung disease in non-smokers'.
'WARNING: Quitting smoking now greatly reduces serious risks to your health'.

''(2) PLACEMENT; TYPOGRAPHY; ETC.—

''(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 30 percent of the front and rear panels of the package. The word 'WARNING' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

''(B) HINGED LID BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a hinged lid style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the hinged lid area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

''(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

''(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco product manufacturer, importer, or distributor and is not altered by the retailer in a way that is material to the requirements of this subsection except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with this subsection.

''(b) ADVERTISING REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

''(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word 'WARNING' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital 'W' of the word 'WARNING' in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

''(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

''(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

''(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

''(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including smoke constituent) disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

''(c) MARKETING REQUIREMENTS.—

''(1) RANDOM DISPLAY.—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(2) ROTATION.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(3) REVIEW.—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

''(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(B) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

''(4) APPLICABILITY TO RETAILERS.—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection and subsection (b).''.

SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 201, is further amended by adding at the end the following:

''(d) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.''.

SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

''(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.''.

SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

''SEC. 3. SMOKELESS TOBACCO WARNING.

''(a) GENERAL RULE.—

''(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

'WARNING: This product can cause mouth cancer'.

'WARNING: This product can cause gum disease and tooth loss'.

'WARNING: This product is not a safe alternative to cigarettes'.

'WARNING: Smokeless tobacco is addictive'.

''(2) Each label statement required by paragraph (1) shall be—

''(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

''(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

''(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

''(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

''(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that is supplied to the retailer by a tobacco products manufacturer, importer, or distributor and that is not altered by the retailer unless the retailer offers for sale, sells, or distributes a smokeless tobacco product that is not labeled in accordance with this subsection.

''(b) REQUIRED LABELS.—

''(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

''(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

''(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

''(B) the word 'WARNING' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

''(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

''(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

''(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays in a location open to the public, an advertisement that is not labeled in accordance with the requirements of this subsection.

''(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.''.

SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 203, is further amended by adding at the end the following:

''(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a

change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.''.

SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 201, is further amended by adding at the end the following:

''(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

''(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

''(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

''(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements required under this section, except that this paragraph shall not relieve a retailer of liability if the retailer sells or distributes tobacco products that are not labeled in accordance with the requirements of this subsection.''.

TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

''SEC. 921. LABELING, RECORDKEEPING, RECORDS INSPECTION.

''(a) ORIGIN LABELING.—The label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement 'sale only allowed in the United States.'

''(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

''(1) IN GENERAL.—Not later than 9 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

''(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

''(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

''(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

''(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

''(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling or counterfeiting of tobacco products.

''(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

''(A) imported, exported, distributed or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

''(B) imported, exported, distributed or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General of such knowledge.

''(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

''(A) the actual knowledge that the manufacturer or distributor had; or

''(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.''.

SEC. 302. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

Mr. KENNEDY. Mr. President, today, Senator DEWINE and I are introducing legislation to give the Food and Drug Administration broad authority to regulate tobacco products for the protection of the public health. We cannot in good conscience allow the fuderal agency most responsible for protecting the public health to remain powerless to deal with the enormous risks of tobacco, the most deadly of all consumer products.

Last year, a large bipartisan majority of the Senate voted to grant the FDA authority to regulate tobacco products. It was a major step forward in the long-term effort to enact this legislation, which health experts believe is the most important action Congress could take to protect children from this deadly addiction. Unfortunately, the legislation was blocked by a small group of House conferees.

We are reintroducing our bill today and we are hopeful that 2005 will be the year when Congress takes the final steps to enact this extraordinarily important health legislation. This bill has majority support in the Senate and strong support amongst rank and file members in the House. Now is the time to make it the law of the land.

The stakes are vast. Five thousand children have their first cigarette every day, and two thousand of them become daily smokers. Nearly a thousand of them will die prematurely from tobacco-induced diseases. Smoking is the number one preventable cause of death in the nation today. Cigarettes kill well over four hundred thousand Americans each year. That is more lives lost than from automobile accidents, alcohol abuse, illegal drugs, AIDS, murder, suicide, and fires combined. Our response to a public health problem of this magnitude must consist of more than half-way measures.

We must deal firmly with tobacco company marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco.

The tobacco industry currently spends over eleven billion dollars a year to promote its products. Much of that money is spent in ways designed to tempt children to start smoking, before they are mature enough to appreciate the enormity of the health risk. The industry knows that more than 90 percent of smokers begin as children and are addicted by the time they reach adulthood.

Documents obtained from tobacco companies prove, in the companies'

own words, the magnitude of the industry's efforts to trap children into dependency on their deadly product. Recent studies by the Institute of Medicine and the Centers for Disease Control show the substantial role of industry advertising in decisions by young people to use tobacco products.

If we are serious about reducing youth smoking, FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children. This legislation will give FDA the ability to stop tobacco advertising which glamorizes smoking from appearing where it will be seen by significant numbers of children. It grants FDA full authority to regulate tobacco advertising ''consistent with and to the full extent permitted by the First Amendment.''

FDA authority must also extend to the sale of tobacco products. Nearly every state makes it illegal to sell cigarettes to children under 18, but surveys show that those laws are rarely enforced and frequently violated. FDA must have the power to limit the sale of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machine sales. There must also be serious enforcement efforts with real penalties for those caught selling tobacco products to children. This is the only way to ensure that children under 18 are not able to buy cigarettes.

The FDA conducted the longest rulemaking proceeding in its history, studying which regulations would most effectively reduce the number of children who smoke. Seven hundred thousand public comments were received in the course of that rulemaking. At the conclusion of its proceeding, the Agency promulgated rules on the manner in which cigarettes are advertised and sold. Due to litigation, most of those regulations were never implemented. If we are serious about curbing youth smoking as much as possible, as soon as possible; it makes no sense to require FDA to reinvent the wheel by conducting a new multi-year rulemaking process on the same issues. This legislation will give the youth access and advertising restrictions already developed by FDA the immediate force of law, as if they had been issued under the new statute.

The legislation also provides for stronger warnings on all cigarette and smokeless tobacco packages, and in all print advertisements. These warnings will be more explicit in their description of the medical problems which can result from tobacco use. The FDA is given the authority to change the text of these warning labels periodically, to keep their impact strong.

Nicotine in cigarettes is highly addictive. Medical experts say that it is as addictive as heroin or cocaine. Yet for decades, tobacco companies have vehemently denied the addictiveness of their products. No one can forget the parade of tobacco executives who testified under oath before Congress that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proves that the companies not only knew of this addictiveness for decades, but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

The tobacco industry has a long, dishonorable history of providing misleading information about the health consequences of smoking. These companies have repeatedly sought to characterize their products as far less hazardous than they are. They made minor innovations in product design seem far more significant for the health of the user than they actually were. It is essential that FDA have clear and unambiguous authority to prevent such misrepresentations in the future. The largest disinformation campaign in the history of the corporate world must end.

Given the addictiveness of tobacco products, it is essential that the FDA regulate them for the protection of the public health. Over forty million Americans are currently addicted to cigarettes. No responsible public health official believes that cigarettes should be banned. A ban would leave forty million people without a way to satisfy their drug dependency. FDA should be able to take the necessary steps to help addicted smokers overcome their addiction, and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, FDA must have the authority to reduce or remove hazardous ingredients from cigarettes, to the extent that it becomes scientifically feasible. The inherent risk in smoking should not be unnecessarily compounded.

Recent statements by several tobacco companies make clear that they plan to develop what they characterize as ''reduced risk'' cigarettes. This legislation will require manufacturers to submit such ''reduced risk'' products to the FDA for analysis before they can be marketed. No health-related claims will be permitted until they have been verified to the FDA's satisfaction. These safeguards are essential to prevent deceptive industry marketing campaigns, which could lull the public into a false sense of health safety.

Smoking is the number one preventable cause of death in America. Congress must vest FDA not only with the responsibility for regulating tobacco products, but with full authority to do the job effectively.

This legislation will give the FDA the legal authority it needs—to reduce youth smoking by preventing tobacco advertising which targets children—to prevent the sale of tobacco products to minors—to help smokers overcome their addiction—to make tobacco products less toxic for those who continue to use them—and to prevent the tobacco industry from misleading the public about the dangers of smoking.

Enacting this bill this year is the right thing to do for America's children.

By Mr. SPECTER:

S. 668. A bill to provide enhanced criminal penalties for willful violations of occupational standards for asbestos; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, today I rise to introduce the ''Asbestos Standards Enforcement Act.'' This legislation provides for enhanced criminal penalties for willful violations of occupational standards for asbestos.

Currently, the Occupational Safety and Health Act provides for criminal sanctions only in those cases where a willful violation of standards results in the death of a worker. This circumstance is not likely to occur when an employer is cited for an asbestos violation, due to the long latency of the disease, and the fact that the Occupational Safety and Health Administration is required to issue citations within six months after inspectors find workplace violations.

This legislation would subject employers who willfully violate OSHA asbestos standards to fines at levels set by the Uniform Criminal Code, as well as imprisonment of up to five years, or both. If the conviction is for a violation committed after a first conviction, this legislation would provide punishment by penalties in accordance with the Uniform Criminal Code, imprisonment for not more than ten years, or both.

Strong enforcement actions against parties that violate OSHA asbestos rules are necessary to avoid putting workers and the public at risk of asbestos related diseases. I have incorporated these strong measures in my discussion draft of the ''Fairness in Asbestos Injury Resolution Act.'' While that legislation is being considered, there is no reason not to proceed with OSHA legislation that would come before the Senate Health, Education, Labor, and Pension Committee.

There are still egregious practices by employers, particularly when it comes to asbestos abatement, that must be stopped. In a recent case, owners of an asbestos removal firm were convicted of exposing hundreds of workers to such high levels of asbestos that many of these workers are almost certain to contract asbestosis, lung cancers, and mesothelioma. Yet this case involved criminal prosecution under environmental laws because the OSHA Act does not contain sufficient authority for criminal prosecution in such cases. In many other asbestos cases, it may not be possible to successfully apply environmental laws to protect workers. The bill I am introducing today would permit criminal prosecution directly under the OSHA Act, the law that is supposed to protect safety and health

in the workplace. I urge the Senate to pass this legislation.

By Mr. MCCAIN (for himself and Mr. SALAZAR):

S. 670. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator SALAZAR in introducing the Cesar Estrada Chavez Study Act. This legislation would authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Chavez. Mr. Chavez's legacy is an inspiration to us all and he will be remembered for helping Americans to transcend distinctions of experience and share equally in the rights and responsibilities of freedom. It is important that we honor his struggle and do what we can to preserve appropriate sites that are significant to his life.

Cesar Chavez, an Arizonan born in Yuma, was the son of migrant farm workers. While his formal education ended in the eighth grade, his insatiable intellectual curiosity and determination helped make him known as one of the great American leaders for his successes in organizing migrant farm workers. His efforts on behalf of some of the most oppressed individuals in our society is an inspiration and through his work he made America a bigger and a better nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a defender of worker's rights. He founded the National Farm Workers Association in 1962, which later became the United Farm Workers of America. He gave a voice to those who had no voice. In his words, ''We cannot seek achievement for ourselves and forget about progress and prosperity for our community . . . our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.''

This legislation, which passed the Senate unanimously during the last Congress, has received an overwhelming positive response, not only from my fellow Arizonans, but from Americans all across the Nation. The bill would direct the Secretary of the Interior to determine whether any of the sites significant to Chavez's life meet the criteria for being listed on the National Register of Historic Landmarks. The goal of this legislation is to establish a foundation for future legislation that would then designate land for the appropriate sites to become historic landmarks.

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. His motto in life, ''sí se puede'' or it can be done, epitomizes his life's work and continues to influence those wishing to improve our Nation. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.

Mr. SALAZAR. Mr. President, I rise today to speak about an exemplary American and passionate champion of human and civil rights, Cesar Estrada Chavez, and to introduce legislation that takes an important first step in memorializing his tremendous contributions to our country.

Together with Senator JOHN MCCAIN, I will introduce the Cesar Estrada Chavez Study Act. This bill will direct the Secretary of the Interior to conduct a study of sites associated with the life of Cesar Chavez and will lay the necessary groundwork for the preservation of these sites as national historic landmarks. In the 108th Congress, Senator MCCAIN and Representative Hilda Solis sponsored similar legislation in the House of Representatives, and I am pleased to join their efforts.

Like many great American heroes, Cesar Chavez came from humble roots, but his strength of character led him to achieve great things. Chavez was born on March 31, 1927 in Yuma, AZ, where he spent his early years on his family's farm. At age 10, his family lost their farm in a bank foreclosure, forcing them to join the thousands of farm workers that wandered the Southwest to find work. They worked in fields and vineyards, harvesting the fresh fruits and vegetables that people throughout the world enjoyed unaware of the daily hardships endured by farm workers.

Cesar Chavez experienced these hardships and witnessed first hand the injustices in farm worker life. He became determined to bring dignity to farm workers and in 1962, he founded the National Farmworkers Association, which would later become the United Farmworkers of America (UFW). Through the UFW, Chavez called attention to the terrible working and living conditions of America's farm workers. Most importantly, he organized thousands of migrant farm workers to fight for fair wages, health care coverage, pension benefits, livable housing, and respect.

Like Cesar Chavez, I am the son of farmers. Everyday, I am reminded of my family's tradition of working the land by the sign on my desk that reads ''No Farms, No Food.'' And without farm workers, who would harvest the fruits and vegetables we all enjoy? Cesar Chavez understood this—he championed the rights of these forgotten Americans and helped shine a light of their plight. He once remarked, ''It is my deepest belief that only by giving our lives do we find life.'' He gave his life to ensure farm workers, and all workers, were afforded the rights and dignity they deserved.

For these reasons and many more, I proudly join my colleague from Arizona in introducing significant legislation that will honor Cesar Chavez. It is my hope that Congress can work together to quickly pass this important bill that honor the places of Chavez' life and allow his legacy to inspire and serve as an example for our future leaders.

By Mr. CORZINE:

S. 674. A bill to provide assistance to combat HIV/AIDS in India, and for other purposes; to the Committee on Foreign Relations.

Mr. CORZINE. Mr. President, today I am introducing legislation to make India eligible for assistance under the Emergency Plan for AIDS Relief (PEPFAR).

India is at a tipping point. A silent tsunami is at hand, and we can either act now or witness the preventable deaths of millions of people. An estimated 5.1 million people are infected with the HIV virus in India, second only to South Africa. HIV/AIDS has been reported in almost all the states and union territories of the country. In some parts of the country, the prevalence rates are similar to those in the hardest-hit areas of sub-Saharan Africa. In Belgaun in Karnataka, for instance, a district whose population is greater than that of Ireland, 4.5 percent are infected.

The epidemic is spreading rapidly from urban to rural areas and from high-risk groups such as sex workers and IV drug users to the general population. The mobility of India's population threatens to spread HIV/AIDS around the country. And with an overall population larger than the whole of Africa, there exists a serious threat of catastrophe. One estimate, by the CIA, predicted that 20 to 25 million could be infected by 2010, more than in any other country in the world.

India's political leaders, public health officials, non-governmental organizations, and medical and scientific communities have taken important steps to combat HIV/AIDS. India, the world's largest democracy, has skilled governmental and civil society actors who are committed to a new awareness of the AIDS crisis and strategic approaches to combating the disease. But significant gaps remain in the Indian health care system's ability to address the crisis. Only 29 cents per capita are spent in India to combat HIV/AIDS. This amount is significantly less than in countries that have succeeded at stemming the disease, such as Thailand (55 cents) and Uganda ($1.85).

There is an urgent need for assistance in care and treatment. More resources are necessary for public education, as demonstrated by the fact that 90 percent of Indians with HIV do not know they are infected. There is also a desperate need for assistance in tracking and monitoring the epidemic, merely to ascertain its full scope. These and other gaps require immediate and sustained U.S. engagement and contribution of resources.

The U.S. government is doing important work to combat HIV/AIDS in India, but the available resources are insufficient. To provide the necessary

assistance, and to demonstrate America's commitment to helping India combat HIV/AIDS, it is critical that India become eligible for the President's Emergency Plan for AIDS Relief. Smaller countries may seem more manageable. Combating HIV/AIDS in a country the size of India may seem daunting. But if we invest now in stopping this epidemic, if we take advantage of this window of opportunity, we can head off a catastrophe.

In addition to adding India to the list of countries eligible for PEPFAR assistance, this bill authorizes whatever funds are necessary to provide this assistance. It thus ensures that confronting the epidemic in India does not come at the expense of other countries. We must continue to expand the list of eligible countries in recognition of the global nature of this pandemic. We must also accelerate assistance to African and Caribbean countries already included as focus countries. Finally, we must increase overall funding to combat HIV/AIDS.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE TO COMBAT HIV/AIDS IN INDIA.

Section 1(f)(2)(B)(ii)(VII) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(f)(2)(B)(ii)(VII)) is amended by inserting ''India,'' after ''Haiti,''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

In addition to any amounts otherwise available for such purpose, there is authorized to be appropriated to the President such sums as may be necessary for fiscal years 2006 through 2008 to provide assistance to India pursuant to the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601 et seq.) and the amendments made by that Act.

By Mr. DORGAN (for himself, Mr. HAGEL, Mr. BROWNBACK, Mr. JOHNSON, Mr. DURBIN, Mr. BURNS, Mr. CONRAD, Mr. DAYTON, and Mr. HARKIN):

S. 675. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, today Senators HAGEL, BROWNBACK, JOHNSON and many of our colleagues are re-introducing the New Homestead Act that will help address one of the most serious threats to the future of America's Heartland—the loss of its residents and Main Street businesses.

Over the past several years, we have described for our colleagues—and the American people—the economic devastation that population loss has had on America's Heartland. Hundreds of thousands of people have left small towns in rural areas throughout the Great Plains in search of opportunities elsewhere.

In North Dakota, we have experienced greater than 10 percent net outmigration in nearly 90 percent of our counties over the past two decades. My home county, Hettinger, saw its population dwindle from 4,257 in 1980 to just 2,715 in 2000. Its population is projected to drop to just 1,877 by 2020.

However, this out-migration problem isn't limited to North Dakota. Nearly all of America's Heartland is facing population losses of epic proportions. Seventy percent of the rural counties in the Great Plains have seen their population shrink by at least one-third.

If you are a business owner, mayor, school board member, minister or resident of one of these rural communities, you know firsthand about this problem. People who are from these areas know that you simply can't grow or run a business in an environment where the overall economy is shrinking, current and potential customers are leaving, and public and private investment is falling. Too many communities in North Dakota and other rural States lack the critical mass of people and resources it takes to keep a community alive and growing.

The New Homestead Act of2005 that we are introducing today will help stem the problem of chronic rural outmigration and allow many rural areas to grow and prosper again. This one-of-a kind bill is virtually identical to the bill we introduced in the last Congress. The New Homestead Act gives people who are willing to commit to live and work in high out-migration areas for 5 years added incentives to buy a home, pay for college, build a nest egg, and start a business—or just plain get ahead in life. These incentives include repaying a portion of college loans, offering a tax credit for the purchase of a new home, protecting home values by allowing losses in home value to be deducted from Federal income taxes, and establishing Individual Homestead Accounts that will help people build savings and have access to credit.

This legislation also would establish a new venture capital fund with state and local governments as partners to ensure that entrepreneurs and companies in these areas get the capital they need to start and grow their businesses.

Our rural areas have been fighting for their very survival for years, yet until recently, most Amen:s didn't even know about this struggle. Today, however, general awareness about the problem of chronic rural out-migration is growing. This issue has been the subject of national symposiums, forums, town hall meetings and congressional hearings.

Last year, the U.S. Senate acted on some provisions from the New Homestead Act that offer state and local governments much-needed tools to encourage businesses to locate or stay in rural areas that are suffering from high out-migration. With the help of the leaders of the tax-writing Senate Finance Committee, Chairman CHUCK GRASSLEY of Iowa and Ranking Democrat MAX BAUCUS of Montana, the Senate passed two key investment tax credit measures in the New Homestead Act as part of a major corporate tax bill considered last year. These investment tax credits would have been used to encourage businesses to move to or expand their operations in high out-migration rural counties. Together, these rural investment tax provisions would have made an estimated $641 million in tax credits available for business over the next decade.

Regrettably, these tax provisions were dropped from the final tax bill sent to the President. But the Senate's action sent a message of hope and opportunity to many rural communities: Federal policymakers do understand that rural out-migration is a serious threat to the economic well-being of the Nation's Heartland and that the New Homestead Act is a serious proposal for addressing it.

I think our colleagues would agree that our Nation's rural areas are great places to live and raise a family. Most rural communities have good schools, low crime rates, and a level of civic involvement that would make any public official proud. But unfortunately it has been a constant struggle for many rural communities in North Dakota and the Great Plains to survive. This shouldn't be the case.

I look forward to working with all of my Senate colleagues to try to reverse the trend of population loss and grow the economies of rural areas in North Dakota, Nebraska, Iowa, Kansas and the rest of America's Heartland. Enacting the policy changes recommended in the New Homestead Act is a very good place to start.

I urge my colleagues to support the New Homestead Act in the 109th Congress by cosponsoring it and helping us move this important bill forward, once again, in the legislative process.

By Mr. STEVENS (for himself, Mr. FRIST, Mr. SPECTER, Mr. ALEXANDER, Mr. DEWINE, Mrs. CLINTON, and Mrs. HUTCHISON):

S. 676. A bill to provide for Project GRAD programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. STEVENS. Mr. President, I have introduced today the Graduation Really Achieves Dreams, GRAD, Act, which will help improve our nation's graduation rate by authorizing a program that has a proven track record—Project GRAD USA. I am joined by my colleagues, Senators FRIST, CLINTON, ALEXANDER, DEWINE, HUTCHISON and SPECTER.

Currently in our Nation, we graduate only 70 percent of our students from high school. In high poverty urban districts, we often graduate fewer than half that many—one in three. In rural areas, where one-third of American students are educated—only 58.8 percent of students attend colleges and

universities, compared with 68.2 percent in urban and suburban areas. The problem is especially acute in Alaska, where Alaska Natives are almost twice as likely as other students to drop out of high school.

We must provide better support and resources for our most vulnerable students. Project GRAD USA is already doing that job in 12 sites nationwide, including one in my own State of Alaska.

Project GRAD USA is a national program to increase the number of low-income and at-risk students who attend college and earn degrees. Unlike other national programs, Project GRAD USA is a comprehensive non-profit K–12 education reform program. It serves at-risk students, beginning in kindergarten, and staying with them through college, by offering research-based programs in reading, math, classroom management, social services, and college preparation. Students who qualify then receive a four-year college scholarship. Scholarships are funded by private-industry donations and foundation grants, as well as previously-appropriated Federal dollars.

In Alaska, Project GRAD established a program in the Kenai Peninsula and serves six K–12 schools and one K–10 school, reaching 600 students. Three schools serve small Alaska Native communities; three serve Russian Old Believer communities; and the seventh school serves a mixed community of Alaska Natives, Russians and other Caucasians. More than 47 percent of the students Project GRAD Kenai serves are at poverty level, and 49.2 percent of Kenai students report that a language other than English is spoken at home. Project GRAD is committed to maintaining cultural relevance in each of the schools it serves and creating individualized components developed with community leaders, teachers and families.

This legislation would provide funds so Project GRAD can continue to grow in the States where it now operates and expand its proven model elsewhere. It also requires the local sites to match federal funds it receives with local dollars and in-kind support. In this way, federal funds are leveraged to increase support for needed educational reform and enhancement.

When I visit the Kenai Peninsula in Alaska, I see first hand the impact Project GRAD has made on the students in this district as well as the significant economic impact to the overall Peninsula. In the first five years of the program, over $6 million will be invested in program development and implementation and nearly $250,000 will be awarded in scholarships.

Project GRAD USA has proven its effectiveness nationwide and now serves over 133,000 students. High school graduation rates for long-term participants have increased by 85 percent, and those who have gone on to college have earned college degrees at a rate of 89 percent above the national average. These results have not gone unnoticed as President Bush and Majority Leader FRIST have both strongly supported the program. Further, Fortune magazine chose GRAD as its ''charity of choice'' for 2004.

Proven education, retention and graduation initiatives aimed at our students most at-risk deserve every policy maker's attention as we aim to do the most good with limited resources. I am proud to support this legislation, and I encourage my colleagues to join me to ensure Project GRAD's continued success for our children.

By Mr. SANTORUM (for himself, Mr. KERRY, Mr. ENSIGN, Mr. LIEBERMAN, Mr. BROWNBACK, Mrs. CLINTON, Mr. SMITH, Mr. SCHUMER, Mr. TALENT, Mr. CORZINE, Mr. COBURN, and Mr. HATCH):

S. 677. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise today to introduce the Workplace Religious Freedom Act. I am pleased to be joined in this effort by Senator KERRY and appreciate the work he has done on this bill over the years. I am also pleased to have a number of Senators, both Democrats and Republicans, liberals and conservatives, join me in cosponsoring this important legislation.

The bill we introduce today is intended to ensure that employees are not forced to choose between their religious beliefs and practices and keeping their jobs. It recognizes that an individual's faith impacts every part of their life, including the many hours spent in the workplace. America is distinguished internationally as a land of religious freedom, and it should be a place where people are not forced to choose between keeping their faith and keeping their job. This simple proposition is why we are re-introducing the Workplace Religious Freedom Act (WRFA), which provides a balanced approach to reconciling the needs of people of faith in the workplace with those of employers.

Title VII of the Civil Rights Act of 1964 was meant to address conflicts between religion and work. It requires employers to reasonably accommodate the religious needs of their employees so long as it does not impose an undue hardship on the employer. The problem is that our federal courts have essentially ruled that any hardship is an undue hardship and have thus left religiously observant workers with little or no legal protection. WRFA will reestablish the principle that employers must reasonably accommodate the religious needs of employees. This legislation is carefully crafted and strikes an appropriate balance, respecting religious accommodation while ensuring that an undue burden is not forced upon employers. WRFA is also careful to ensure that the accommodation of an individual employee's religious conscience will not adversely affect the delivery of products or services to an employer's customers or clients.

The balance that this legislation seeks to establish is evident in the broad spectrum of groups supporting this bill, including the Union of Orthodox Jewish Congregations, the Southern Baptist Convention, the National Council of Churches, the North American Council for Muslim Women, the Sikh Resource Taskforce, the Seventh Day Adventist Church, the American Jewish Committee, Agudath Israel of America, the U.S. Conference of Catholic Bishops and many others.

America is a great nation because we honor not only the freedom of conscience, but also the freedom to exercise one's religion according to the dictates of that religious conscience. This fundamental freedom is protected and strengthened in this legislation by reestablishing an appropriate balance between the demands of work and the principles of faith.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD after my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Workplace Religious Freedom Act of 2005''.

SEC. 2. AMENDMENTS.

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting ''(1)'' after ''(j)'';

(2) by inserting '', after initiating and engaging in an affirmative and bona fide effort,'' after ''unable'';

(3) by striking ''an employee's'' and all that follows through ''religious'' and inserting ''an employee's religious''; and

(4) by adding at the end the following:

''(2)(A) In this subsection, the term 'employee' includes an employee (as defined in subsection (f)), or a prospective employee, who, with or without reasonable accommodation, is qualified to perform the essential functions of the employment position that such individual holds or desires.

''(B) In this paragraph, the term 'perform the essential functions' includes carrying out the core requirements of an employment position and does not include carrying out practices relating to clothing, practices relating to taking time off, or other practices that may have a temporary or tangential impact on the ability to perform job functions, if any of the practices described in this subparagraph restrict the ability to wear religious clothing, to take time off for a holy day, or to participate in a religious observance or practice.

''(3) In this subsection, the term 'undue hardship' means an accommodation requiring significant difficulty or expense. For purposes of determining whether an accommodation requires significant difficulty or expense, factors to be considered in making the determination shall include—

''(A) the identifiable cost of the accommodation, including the costs of loss of productivity and of retraining or hiring employees or transferring employees from 1 facility to another;

''(B) the overall financial resources and size of the employer involved, relative to the number of its employees; and

''(C) for an employer with multiple facilities, the geographic separateness or administrative or fiscal relationship of the facilities.''.

(b) EMPLOYMENT PRACTICES.—Section 703 of such Act (42 U.S.C. 2000e–2) is amended by adding at the end the following:

''(o)(1) In this subsection:

''(A) The term 'employee' has the meaning given the term in section 701(j)(2).

''(B) The term 'leave of general usage' means leave provided under the policy or program of an employer, under which—

''(i) an employee may take leave by adjusting or altering the work schedule or assignment of the employee according to criteria determined by the employer; and

''(ii) the employee may determine the purpose for which the leave is to be utilized.

''(2) For purposes of determining whether an employer has committed an unlawful employment practice under this title by failing to provide a reasonable accommodation to the religious observance or practice of an employee, for an accommodation to be considered to be reasonable, the accommodation shall remove the conflict between employment requirements and the religious observance or practice of the employee.

''(3) An employer shall be considered to commit such a practice by failing to provide such a reasonable accommodation for an employee if the employer refuses to permit the employee to utilize leave of general usage to remove such a conflict solely because the leave will be used to accommodate the religious observance or practice of the employee.''.

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 2 take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 do not apply with respect to conduct occurring before the date of enactment of this Act.

By Mr. REID:

S. 678. A bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication; to the Committee on Rules and Administration.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF DEFINITION OF PUBLIC COMMUNICATION.

Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(22)) is amended by adding at the end the following new sentence: ''Such term shall not include communications over the Internet.''.

By Mr. COLEMAN (for himself and Mr. LEVIN):

S. 679. A bill to amend title 10, United States Code, to require the registration of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes; to the Committee on Armed Services.

Mr. COLEMAN. Mr. President, today I am reintroducing the Central Contractor Registry Act. This legislation is particularly relevant this week, as we debate a tough budget to restore fiscal discipline.

Last year the Government Accountability Office testified at a hearing before the Permanent Subcommittee on Investigations that over 27,000 contractors at the Department of Defense owed over $3 billion in unpaid Federal taxes. If we want to demonstrate fiscal discipline, it seems to me that we ought to be looking at places like this before we start talking about cuts to Medicaid or the farm bill. Asking companies that win lucrative government contracts to simply pay their taxes seems like common sense to me.

That's why I have introduced the Central Contractor Registry Act. This bill will close a $3 billion tax loophole and will help to recover over $100 million annually from federal contractors who have not filed federal tax returns or who have not paid the taxes they owe the government.

The bill is simple: it establishes a centralized contractor database within the Department of Defense, and requires federal contractors who register in that database to provide their taxpayer identification number and their consent to verifying that number with the Internal Revenue Service as a condition that must precede the awarding of a contract by the Department of Defense.

Normally, companies that are delinquent in paying their taxes are levied 15 percent of the payments they receive as government contractors. In fiscal year 2002, this should have amounted to over $100 million from tax delinquent Department of Defense contractors. However, actual collections for that year were less than $500,000. And in 2001, over 26,000 of the defense contracts submitted to the IRS to determine contractors' tax liability were unusable.

One of the principal reasons for this anemic state of collections and the large volume of unusable information returns is the inability of the Department of Defense and the Internal Revenue Service to reach an accord on verifying the taxpayer identification numbers of the contractors who have registered in the Department of Defense's Central Contractor Registration database. Under current law, the Department of Defense's authority to verify contractors' taxpayer identification numbers is limited to those contractors who have contracts with the Department of Defense and for whom the department is required to report miscellaneous income to the Internal Revenue Service on a Form 1099 information return. However, there are contractors who have registered in the Central Contractor Registration for whom the Department of Defense lacks authority to verify their taxpayer identification numbers, including individuals and companies who would like to contract with the federal government and contractors who have contracts with agencies and departments other than the Department of Defense. And often the numbers provided are incorrect, but there is no recourse.

My bill will resolve the impasse between the Department of Defense and the Internal Revenue Service by requesting contractors' consent to the validation of their taxpayer identification number as part of the registration process. Contractors will not be required to provide their consent. But if they do not, they will not be awarded a contract by the Department of Defense.

Further, my bill requires the Department of Defense to warn contractors as part of the registration process that if they do not provide a valid taxpayer identification number they may be subject to backup withholding. This would apply to those contractors who list an invalid taxpayer identification number, have a contract with the Department of Defense, and will earn miscellaneous income that is required to be reported to the Internal Revenue Service.

I would like to briefly summarize the major provisions of my bill. It provides a statutory basis for the Central Contractor Registration and renames the database as the Central Contractor Registry. It requires that the registry contain contractors' taxpayer identification numbers, their consent to verifying their numbers with the Internal Revenue Service and for the Internal Revenue Service to provide a corrected number if possible. It requires that registrants furnish this information as a condition for registration, and requires the Department of Defense to warn contractors who fail to provide a valid taxpayer identification number that they may be subject to backup withholding and requires implementation of backup withholding in cases where it is required. It precludes awarding a contract to any registrant who has not provided a valid taxpayer identification number and excludes from coverage any registrant who is not required to have a taxpayer identification number. It directs the Secretary of Defense to apply to the Internal Revenue Service for inclusion in the Taxpayer Identification Number Matching Program and directs the Commissioner of Internal Revenue to provide response to the Department of Defense. It directs the Secretary of Defense to provide any registrant who is determined to have an invalid taxpayer identification number with an opportunity to provide a valid number. It further requires that the Central Contractor Registry clearly indicate whether a registrant's taxpayer identification number is valid, under review,

invalid, or not required. Finally, it requires that contractors' taxpayer identification numbers be treated as confidential by federal contract officers who have access to the Central Contractor Registry.

This bill will ensure that tax cheats are not rewarded with Federal contracts. As we debate the budget this week, I encourage my colleagues to join me in supporting this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Central Contractor Registry Act of 2005''.

SEC. 2. CENTRAL CONTRACTOR REGISTRY DATABASE.

(a) AUTHORITY.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302d the following new section:

''§ 2302e. Central contractor registry

''(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a centralized, electronic database for the registration of sources of property and services who seek to participate in contracts and other procurements entered into by the various procurement officials of the United States. The database shall be known as the 'Central Contractor Registry'.

''(b) TAXPAYER INFORMATION.—(1) The Central Contractor Registry shall include the following tax-related information for each source registered in that registry:

''(A) Each of that source's taxpayer identification numbers.

''(B) The source's authorization for the Secretary of Defense to obtain from the Commissioner of Internal Revenue—

''(i) verification of the validity of each of that source's taxpayer identification numbers; and

''(ii) in the case of any of such source's registered taxpayer identification numbers that is determined invalid, the correct taxpayer identification number (if any).

''(2)(A) The Secretary of Defense shall require each source, as a condition for registration in the Central Contractor Registry, to provide the Secretary with the information and authorization described in paragraph (1).

''(B) The Secretary shall—

''(i) warn each source seeking to register in the Central Contractor Registry that the source may be subject to backup withholding for a failure to submit each such number to the Secretary; and

''(ii) take the actions necessary to initiate the backup withholding in the case of a registrant who fails to register each taxpayer identification number valid for the registrant and is subject to the backup withholding requirement.

''(3) A source registered in the Central Contractor Registry is not eligible for a contract entered into under this chapter or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) if that source—

''(A) has failed to provide the authorization described in paragraph (1)(B);

''(B) has failed to register in that registry all valid taxpayer identification numbers for that source; or

''(C) has registered in that registry an invalid taxpayer identification number and fails to correct that registration.

''(4)(A) The Secretary of Defense shall make arrangements with the Commissioner of Internal Revenue for each head of an agency within the Department of Defense to participate in the taxpayer identification number matching program of the Internal Revenue Service.

''(B) The Commissioner of Internal Revenue shall cooperate with the Secretary of Defense to determine the validity of taxpayer identification numbers registered in the Central Contractor Registry. As part of the cooperation, the Commissioner shall promptly respond to a request of the Secretary of Defense or the head of an agency within the Department of Defense for electronic validation of a taxpayer identification number for a registrant by notifying the Secretary or head of an agency, respectively, of—

''(i) the validity of that number; and

''(ii) in the case of an invalid taxpayer identification number, any correct taxpayer identification number for such registrant that the Commissioner can promptly and reasonably determine.

''(C) The Secretary shall transmit to a registrant a notification of each of the registrant's taxpayer identification numbers, if any, that is determined invalid by the Commissioner of Internal Revenue and shall provide the registrant with an opportunity to substitute a valid taxpayer identification number.

''(5) The Secretary of Defense shall require that, at the place in the Central Contractor Registry where the taxpayer identification numbers of a registrant are to be displayed, the display bear (as applicable)—

''(A) for each taxpayer identification number of that registrant, an indicator of whether such number has been determined valid, is being reviewed for validity, or has been determined invalid; or

''(B) an indicator that no taxpayer identification number is required for the registrant.

''(6) This subsection applies to each source who registers any information regarding that source in the Central Contractor Registry after December 31, 2005, except that paragraphs (1), (2), and (3) do not apply to a source who establishes to the satisfaction of the Secretary of Defense that such source is not required to have a taxpayer identification number.

''(c) CONFIDENTIALITY OF INFORMATION.—The Secretary of Defense shall ensure that taxpayer identification numbers in the Central Contractor Registry are not made available to the public. The Secretary shall prescribe a requirement for procurement officials of the United States having access to such numbers in that registry to maintain the confidentiality of those numbers.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302d the following new item:

''2302e. Central Contractor Registry.''.

INTRODUCING CENTRAL CONTRACTOR REGISTRY ACT

Mr. LEVIN. Mr. President, I join my colleagues, Senators NORM COLEMAN, SUSAN COLLINS and JACK REED, in introducing the Central Contractor Registry Act of 2005. The purpose of this bipartisan bill is to strengthen the ability of the Federal Government to stop tax cheats from obtaining Federal contracts, and for those who have managed to obtain contracts, to use a portion of their contract payments to repay their tax debts.

Now, even more than when we introduced a similar bill in May 2004, it is clear that new legislation is essential to confront the problem of Federal contractor tax debt. Last year the Permanent Subcommittee on Investigations, on which Senator COLEMAN and I sit, raised this issue in a hearing based on a report issued by the Government Accountability Office, GAO. The report showed that over 27,000 contractors at the Department of Defense, DOD, owed $3 billion in unpaid taxes. Approximately 90 percent of these unpaid taxes were payroll taxes, money that should be going to help fund the social security and medicare expenditures that are climbing so rapidly. Too many contractors are continuing to duck payment of these payroll taxes, while at the same time holding out their hands for taxpayer dollars.

Beyond the loss in substantial government revenue, allowing tax cheats to bid on Federal contracts is a disservice to all citizens who meet their tax obligations. It is also a disservice to all of the honest companies that compete for the same government contracts, since companies that do not pay their taxes have lower costs and a competitive advantage over the companies that do.

Current law requires DOD and other government agencies to identify any government contractor with unpaid taxes, to withhold 15 percent or more of their contract payments, and to forward that money to the IRS to be applied to the contractor's tax debt. The official title of the DOD program to carry out this obligation is the Federal Payment Levy Program, sometimes referred to as the DOD tax levy program.

In order to identify tax delinquent contractors before they receive payment, DOD and other agencies participate in a computer matching program administered by the Treasury Department that cross-checks lists of upcoming contractor payments with IRS lists of delinquent taxpayers. If a match occurs, DOD—in the case of defense contractors—and the Treasury Department for all other government contractors is supposed to withhold money from the identified contractor's upcoming contract payments.

The problem is that the computer matching program has so far produced relatively few matches. In 2003, for example, DOD collected only about $680,000 of back taxes through its tax levy program instead of the $100 million that GAO estimates should have been collected. That means DOD collected less than one percent of the back taxes it should have.

One major impediment to the computer matching program has been that it depends upon a Federal agency's providing the correct taxpayer identification number or TIN for each of its contractors, when many contractors have either failed to submit a TIN or supplied an incorrect number. When a TIN is incorrect or missing, the computer matching program is unable to determine whether the relevant government

contractor is on the IRS list of delinquent taxpayers. For example, in 1 year, data indicates that DOD sent the IRS over 26,000 invalid TINs that could not be used.

To increase the efficiency of the computer matching program, the IRS has tried to improve the accuracy of the TINs in agency contractor data. The IRS has, for example, set up a computer-based TIN validation system that can electronically verify a TIN number in seconds. This electronic system is available for use by DOD and all other federal agencies. Unfortunately, the IRS has also interpreted certain tax laws as prohibiting DOD from obtaining TIN validations for many types of contracts. In addition, in the case of TIN numbers with clerical errors, the IRS has interpreted current taxpayer confidentiality laws as prohibiting it from supplying a DOD with a corrected number.

The bill we are introducing today would eliminate this bureaucratic redtape and significantly increase the effectiveness of the tax levy program by increasing the accuracy of the TINs used by DOD.

The bill would strengthen TIN accuracy by focusing primarily on the TINs in the Central Contractor Registry, a government-wide database of persons wishing to bid on Federal contracts. This registry is currently administered by DOD, and current Federal regulations require potential bidders to self-register in the system by supplying specified information. As part of the process, registrants are supposed to supply a TIN, but many either do not or supply an incorrect number. The bill would, for the first time, impose a legal requirement on registrants to supply a valid TIN and would also bar contracts from being awarded to contractors who fail to supply a valid TIN.

In addition, the bill would require registrants to authorize DOD to validate their TINs with the IRS and obtain a corrected TIN from the IRS, if needed and possible. This requirement would apply to all registrants in the Central Contractor Registry, no matter what type of contract is involved and whether the contract is with DOD or another Federal agency. It would also allow the IRS to supply corrected TINs where it can promptly and reasonably do so.

If, by chance, a registrant managed to obtain a DOD contract without having supplied a valid TIN, the bill would direct DOD to withhold a portion of their contract payments to satisfy their tax debt as specified under existing law. Although this backup holding requirement has been on the books for years, DOD has not implemented it. The bill would require DOD to start doing so.

Finally, the bill would provide a number of protections. It would protect privacy by prohibiting DOD and other Federal procurement officials from making TIN numbers available to the public. The information would be kept confidential within the procurement community using the Central Contractor Registry. It would explicitly exempt from the TIN requirements any contractor, such as a foreign business, not required by U.S. law to have a taxpayer identification number. The bill would also require DOD to show in the registry database whether a particular TIN has been validated, is awaiting validation, has been found invalid, or is not required, so that procurement officials using the database will know the status of a contractor's TIN. If the IRS were to determine that a particular TIN was invalid, the bill would require DOD to give the relevant contractor an opportunity to correct the number. The bill would also require DOD to warn all registrants in the Central Contractor Registry of the possibility of backup withholding in the event a contractor fails to provide a valid TIN.

DOD and the IRS have indicated that they are willing to undertake many of the changes suggested in the legislation, such as requiring all CCR registrants, as a condition of their registration, to authorize DOD to validate their TINs with the IRS and obtain a corrected TIN from the IRS, if needed and possible. DOD has even drafted possible language to accomplish this objective. The IRS, however, has yet to agree to the specific language or to take steps to improve TIN validation efforts, despite the passage of nearly a year since we introduced this bill in last Congress, and despite the fact that some CCR registrants continue either to omit their TINs or to provide an invalid TIN. Even if the IRS and DOD were to act as promised, the CCR and the privacy protections mentioned earlier would benefit from specific statutory language addressing this issue. That is why we are re-introducing this bill in the 109th Congress.

It is common business sense for the Federal Government to require contractors who want to be paid with Federal taxpayer dollars to allow the United States to determine whether they owe any taxes and, if so, to offset a portion of their contract payments to reduce their tax debts. To accomplish that objective, the Federal Government has to do a better job in identifying federal contractors with unpaid taxes. Our bill, by improving the accuracy of taxpayer identification numbers in the Central Contractor Registry, will strengthen DOD's ability to identify tax delinquent contractors and either deny them new contracts or reduce their tax debts.

I hope all my colleagues will join us in supporting this legislation's enactment during this Congress.

By Mr. HATCH (for himself, Mr. DODD, Mr. BROWNBACK, Mr. HARKIN, and Mr. SPECTER):

S. 681. A bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, I am pleased to introduce ''The Cord Blood Stem Cell Act of 2005.'' I am particularly gratified that Senators DODD, BROWNBACK, HARKIN, and SPECTER have joined me as cosponsors of this bipartisan bill. Since I first introduced this bill last Congress, there has been strong interest in Federal support for public cord blood banks as a widely accepted source of hematopoietic stem cells for transplant and research. The purpose of the Cord Blood Stem Cell Act is to create an easily accessible network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support research using such cells.

Today, thousands of Americans receive and are saved by bone marrow transplants each year. But thousands more die for lack of an appropriate donor. The good news is that research now suggests that the blood and stem cells from human placenta and umbilical cords may in some cases provide an alternative to bone marrow transplantation. For some patients, particularly those for whom a bone marrow match cannot be found, transplantation of these cells may be a life-saving therapy. Cord blood stem cell transplants are readily available, and they require less stringent matching from donors to recipients, thus decreasing the difficulty of finding a fully matched donor.

Cord blood transplantation has been used successfully to treat leukemia, lymphoma, immunodeficiency diseases, sickle cell anemia, and certain metabolic diseases. However, the number of available cord blood stem cell units in the United States is insufficient to meet the need. The Cord Blood Stem Cell Act of 2005 proposes to establish an inventory of 150,000 cord blood stem cell units that reflects the diversity of the United States. In conjunction with the 5 million registered bone marrow donors, this registry will enable 95 percent of Americans to receive an appropriately matched transplant. The inventory would provide a critical additional resource for those in need of transplants and allocate a certain proportion of units to sustain further research on cord blood stem cells.

In 2004, Congress asked the Institute of Medicine to provide an assessment of existing cord blood programs and inventories and to make recommendations to enhance the structure, function, and utility of such programs. Following a year-long process of review and evaluation, the Institute of Medicine will soon issue recommendations on the best methods to create and implement this public cord blood bank network. I look forward to reviewing these recommendations and ensuring that they are appropriately reflected in any legislation.

Let me be clear—I am open to all options. It is my goal to create the best system to provide patients, clinicians, and families with access to these lifesaving treatments by ensuring that the number of cord blood units available for transplant and research increases in the coming years.

The system will include a network of qualified donor banks which will collect, test, and preserve cord blood stem cells. In addition, the system should educate and recruit donors, facilitate the rapid matching of donors and recipients, and quickly make such cells available to transplant centers for stem cell transplantation.

I also strongly endorse the excellent work done by the National Marrow Donor Program (NMDP), which Congress created in 1986 and continues to fund. This registry already lists more than 42,000 units of umbilical cord blood and provides important patient advocacy and support services. It also provides an online service which allows physicians to compare potential cord blood matches with potential adult volunteer donor matches so that they can select the source of cells that best meets their patients' needs. Cord blood should be used to expand patient choices, not to restrict them. Patients, in consultation with their physicians, should have the ability to decide which is best for them.

The establishment of a national infrastructure for cord blood will help save the lives of thousands of critically ill Americans. And while this legislation is not perfect, it is my hope that its introduction will encourage discussions on cord blood and the federal government's role in helping to increase the inventory of cord blood units in the United States.

In my opinion, we must be sure that our nation can meet the needs of patients and physicians by ensuring a strong future for cord blood in this country. My primary goal is to ensure that the number of cord blood units available for transplant and research increases in the coming years. The only way that goal may be accomplished is through strong federal support. I look forward to working with my colleagues on doing everything possible to provide transplant patients with the best possible options by ensuring a strong future for cord blood transplantation in this country.

Mr. DODD. Mr. President, I am pleased to join Senator HATCH and Senator BROWNBACK in introducing legislation to advance the use of umbilical cord blood for clinical applications and research. I first became aware of the potential therapeutic benefits of cord blood when my first daughter was born three and a half years ago. At that time, our doctor informed me and my wife that preserving a small amount of blood from the umbilical cord could prove enormously beneficial later in her life. Should she become ill with a disease requiring bone marrow reconstitution, such as leukemia, her own cord blood stem cells could be used. This would eliminate the need to find a suitable bone marrow donor.

The bill that we are introducing today will begin a new national commitment to the development of this technology—which has the potential to reduce pain and suffering and save the lives of so many Americans afflicted with some of the most debilitating illnesses. Cord blood has already been used successfully in treating a number of diseases, including sickle cell anemia and certain childhood cancers. However, the use of cord blood is still fledgling. Recent developments have suggested that the stem cells derived from cord blood may be useful in treating a much wider range of diseases, such as Parkinson's disease, diabetes, and heart disease.

Like many Americans, I had never heard of cord blood before the birth of my daughter. It is not widely used—at least in this country. Approximately 95 percent of all bone marrow reconstitutions were done using a bone marrow transplant. Only five percent used cord blood. This figure is surprising when we consider the potential benefits of cord blood relative to bone marrow.

First, it can be very difficult to find a suitable bone marrow donor. According to a General Accounting Office (GAO) report, of the 15,231 individuals needing bone marrow transplants between 1997 and 2000 who conducted a preliminary search of the National Bone Marrow Donor Registry (NBMDR), only 4,056 received a transplant—a 27 percent success rate. This number is even lower for minorities. Cord blood would not only produce an additional source of donation; it also does not require as exact a match as bone marrow.

In addition, cord blood is readily available. While it can take months between finding a bone marrow match and actually receiving a transplant, a unit of cord blood can be utilized in a matter of days or weeks. Cord blood also lowers the risk of complications for both the donor and the recipient. The need to extract bone marrow from the donor is eliminated, and the risk of infection or rejection by the recipient is significantly reduced. Finally, research has suggested that cord blood might produce better outcomes than bone marrow in children.

Why then, given all of these benefits, has the use of cord blood not become much more prevalent in the United States? In Japan, where the use of cord blood in clinical setting is more advanced, nearly half of all transplants now use cord blood rather than bone marrow.

The relatively infrequent use of cord blood in our country is at least partly attributable to the lack of a national infrastructure for the matching and distribution of cord blood units. There are a handful of cord blood banks around the country doing excellent work, but there is a much more developed infrastructure for bone marrow. This is thanks to legislation passed by Congress in 1986 that established a National Registry for bone marrow. By the way, that legislation is due to be reauthorized—and I would like to voice my strong support for that reauthorization.

Our bill would create a similar infrastructure for cord blood. Specifically, it would direct the Secretary of Health and Human Services (HHS), acting through the Administrator of the Health Resources and Services Administration (HRSA), to establish a National Cord Blood Stem Cell Bank Network, as well as a registry of available cord blood units. The network and registry would be required to collect a minimum of 150,000 units, which should be sufficient to provide a suitable match for 90 percent of the U.S. population.

Donor banks would also be required to educate the general public about the potential benefits of cord blood, and encourage an ethnically diverse population of cord blood donors. Given the untapped potential of cord blood, at least ten percent of the available units must also be made available for research. Finally, the legislation authorizes an appropriation of $15 million for fiscal year 2006, and such sums as may be necessary for fiscal years 2007 through 2010.

Before finishing today I would like to make it clear that I strongly support the continuation of the excellent work done by the National Marrow Donor Program (NMDP). Cord blood should act as a complement to—not a replacement for—bone marrow. In many cases, a bone marrow transplant is still the preferred therapy. Physicians should have the ability to decide on a case by case basis which is best for their patient.

In the coming weeks, the Institute of Medicine (IOM) will release a report with recommendations about the appropriate structure for a cord blood registry. I look forward to reviewing those recommendations and, if necessary, making the appropriate changes to our legislation.

I firmly believe that the creation of a national infrastructure for cord blood will, in time, save the lives of thousands of gravely ill Americans. We have a responsibility to encourage use of cord blood where appropriate today, and invest in research to fully tap the potential of this technology. I urge my colleagues to support this legislation.

By Mr. DODD:

S. 682. A bill to authorize the establishment of a Social Investment and Economic Development Fund for the Americans to provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere, and for other purposes; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, I rise today to introduce the Social Investment and Economic Development Fund

for the Americas Act of 2005. This legislation would authorize critical assistance to fight poverty and increase economic opportunity in the countries of the Western Hemisphere.

In January, my colleagues Senator BILL NELSON, Senator LINCOLN CHAFEE and I visited Venezuela, Paraguay, Argentina, Peru and Ecuador. Our trip and discussions with political and economic leaders throughout the region underscored to me the danger that poverty and economic inequality continue to pose to regional stability, the rule of law, and to the continuation of market reforms.

One third of the population in Latin America currently lives in poverty. 128 million people survive on less than two dollars a day, and 50 million people on less than one dollar a day. In Haiti, the poorest country in the Western Hemisphere, 65 percent of the population lives below the poverty line. Despite economic growth throughout the 1990s, moreover, unemployment in Latin America actually increased. And as we all know such factors have the potential to increase instability and undermine democratic reforms and the rule of law. Indeed, individuals living in poverty are often forced by circumstances to engage in illicit activity, including narco-trafficking and even supporting terrorist related activities.

But there is not only tremendous poverty. Income inequality in Latin America is the highest in the world. To illustrate that fact, consider that the richest one-tenth of all Latin Americans earn 48 percent of the total national income, whereas the bottom one tenth earns only 1.6 percent. By contrast, in developed countries, the top ten percent earns 29.1 percent, and the bottom 10 percent earns 2.5 percent. Is it any wonder that economic inequality in Uruguay, the most equal country in Latin America, is still greater than in the most unequal country in Eastern Europe?

Poverty and inequality are not simply social injustices. They threaten the political stability of Latin America and the national interests of the United States. Indeed, according to a 2004 report by the United Nations Development Program, progress in extending elective democracy across Latin America is threatened by ongoing social and economic turmoil. Most troubling, the report suggests that over 50 percent of the population of Latin America would be willing to sacrifice democratic government for real progress on the economic and social fronts. That is a frightening statistic. And it should make crystal clear the urgency of this situation. Two decades of progress in our hemisphere is at risk.

The Social Investment and Economic Development Fund for the Americas Act of 2005 would seek to address these issues by investing in the peoples of the Americas. This important legislation would make it United States policy to promote market-based principles, economic integration, social development, and inter-American trade. To that end, it would authorize $250 million annually in bilateral economic assistance to the hemisphere through fiscal year 2010. It would also authorize multilateral assistance, directed through the Inter-American Development Bank, of no more than $250 million per year and $1.25 billion in total.

Certainly, strong trade relations remain a key to creating healthy economies both here in the United States and throughout the region. But trade alone cannot address the myriad challenges facing Latin America, when millions of citizens in the hemisphere remain marginalized by economic insecurity and social dislocation. That is another reason why this bill is so critical.

To confront these challenges, we have to start at the grass roots. We have to start with the people. And the Social Investment and Economic Development Fund for the Americas would do that by supporting public-private partnerships and micro-enterprise developments. It would give honest, hardworking families the chance to become entrepreneurial and to create a broad based ownership society in their countries. We promote these values here at home, and we should do so abroad.

Investing in people also means investing in human capital. And there is clearly a need. According to the World Bank large portions of the population do not receive adequate services such as education and health care. Education, in particular, is identified as critical to development. Yet the quality of education varies significantly based on social status and income distribution. In Mexico, for example, the average individual in the bottom 20 percent income bracket has only 3.5 years of schooling, whereas an individual in the top 20 percent income bracket has 11.6 years. My legislation would address these inequities by targeting assistance at projects which would invest in education. It would also build human capital by investing in basic needs such as health care, disease prevention, nutrition, and housing.

To move forward, we also have to help the people invest in good governance. Public corruption remains an especially persistent and pernicious problem in this hemisphere. Both Transparency International and the World Economic Forum report high levels of corruption throughout the region. Moreover, while full citizen participation in government is a key to strengthening democracy and ensuring that civil services work, many Latin American citizens do not express confidence in their political institutions. This Act would attempt to overcome these barriers to progress by enhancing efficiency and transparency in government services as well as increasing civil society participation in government.

Lastly, marginalized populations, including indigenous groups, people of African descent, women, and people with disabilities, are particularly affected by problems of poverty and income inequality. This act would target funds to reduce poverty and decrease social dislocation among these populations.

The funds authorized by this act would be distributed on the basis of competitive bidding and inter-American cooperation. To do so, this legislation would establish technical review committees which will partner with consultative committees in each country to make determinations on funding requests.

Finally, the historic Summits of the Americas made it clear that economic and social integration are the responsibilities of all nations in the Western Hemisphere. Through this act, the United States would send a strong signal to others in the region that we take these responsibilities seriously. And it will challenge the other countries in the hemisphere to collectively match our efforts.

We stand today at a moment of great opportunity and great risk in this hemisphere. The past two decades have witnessed the rise of democratic governments in nations that long languished under dictatorship. Yet this progress is endangered. Economic and social conditions for millions of men and women continue to lag dangerously far behind. It is in our moral and strategic interests to provide the necessary economic assistance to fight the scourges of poverty and social dislocation in this hemisphere. The Social Investment and Economic Development Fund for the Americas Act of 2005 is a vital first step to achieving this goal. I ask my colleagues to join me in supporting this important legislation.

I ask unamimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Investment and Economic Development Fund for the Americas Act of 2005''.

SEC. 2. FINDINGS; STATEMENT OF POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The historic economic, political, cultural, and geographic relationships among the countries of the Western Hemisphere are unique and of continuing special significance to the United States.

(2) The interests of the countries of the Western Hemisphere are more interrelated today than ever before. Consequently, sound economic, social, and democratic progress in each of the countries continues to benefit other countries, and lack of it in any country may have serious repercussions in others.

(3) Following the historic Summits of the Americas, the 1994 Summit in Miami, the

1998 Summit in Santiago, Chile, the 2001 Summit in Quebec City, Canada, and the 2004 Special Summit in Monterrey, Mexico, the heads of state of the countries of the Western Hemisphere accepted the formidable challenge of economic and social integration in and between their respective countries.

(4) To make progress toward economic and social integration, there is a compelling need to focus on the social development of the people of the Americas which, in turn, will promote the economic and political development of the region.

(5) Investment in social development in the Americas, including investment in human and social capital, specifically in education, health, housing, and labor markets with the goal of combating social exclusion and social ills, will consolidate political democracy and the rule of law and promote regional economic integration and trade in the region.

(6) The challenge of achieving economic integration between one of the world's most developed economies and some of the poorest and most vulnerable countries requires a special effort to promote social equality, develop skills, and modernize the infrastructure in poorer countries that will enable the people of these countries to maximize the amount of benefits accrued from economic integration.

(7) The particular challenge facing social and economic development in Latin America is the historic and persistent highly unequal distribution of wealth. Latin America suffers from the most unequal distribution of wealth in the world with huge inequities in the distribution of assets including education, land, and credit.

(8) Latin America also confronts the challenge of an increasing number of poor people. As of today, approximately one-third of the population lives in poverty and increasing numbers live in extreme poverty. Poverty exists in all Latin American countries but 70 percent of the region's poor live in the five largest middle-income countries.

(9) Marginalized groups, including indigenous populations, people of African descent, women, people with disabilities, and rural populations, are socially excluded and suffer from poverty, stigma, and discrimination.

(10) Democratic values are dominant throughout the Americas, and nearly all governments in the region have come to power through democratic elections.

(11) Nonetheless, existing democratic governments and their constituent institutions remain fragile and face critical challenges including effective democratic civilian authority over these institutions, including the military, the consolidation or establishment of independent judicial institutions and the rule of law, and the elimination of corruption.

(12) The prosperity, security, and well-being of the United States is linked directly to peace, prosperity, and democracy in the Americas. The entire region benefits by reducing poverty, strengthening the middle class, and promoting the rule of law which will also increase markets for United States goods and create a better environment for regional investment by United States businesses.

(13) Section 101 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151) establishes as a principal objective of United States foreign assistance the ''encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives''.

(14) It is in the national interests of the United States to assist developing countries in the Western Hemisphere as they implement the economic and political policies which are necessary to achieve equitable economic growth.

(15) The Summit of the Americas has directly charged the multilateral institutions of the Americas, including the Organization of American States (OAS), the Inter-American Development Bank (IADB), and the Inter-American Agency for Cooperation and Development with mobilizing private-public sector partnerships among industry and civil society to help achieve equitable development objectives.

(16) By supporting the purposes and objectives of development and applying such purposes and objectives to the Americas, a Social Investment and Economic Development Fund for the Americas has the potential to advance the national interests of the United States and directly improve the lives of the poor and marginalized groups, encourage broad-based economic growth while protecting the environment, build human capital and knowledge, support meaningful participation in democracy, and promote peace and justice in the Americas.

(b) STATEMENT OF POLICY.—It is the policy of the United States—

(1) to promote market-based principles, economic integration, social development, and trade in and between countries of the Americas by—

(A) nurturing public-private partnerships and microenterprise development;

(B) improving the quality of life and investing in human capital, specifically targeting education, health and disease prevention, nutrition, and housing;

(C) strengthening the rule of law through improved efficiency and transparency in government services and increasing civil society participation in government; and

(D) reducing poverty and eliminating the exclusion of marginalized populations, including people of African descent, indigenous groups, women, and people with disabilities; and

(2) to establish an investment fund for the Western Hemisphere to advance the national interests of the United States, directly improve the lives of the poor and marginalized, encourage broad-based economic growth while protecting the environment, build human capital and knowledge, support meaningful participation in democratic institutions and processes, and promote peace and justice in the Americas.

SEC. 3. AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1961.

Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

''CHAPTER 13—SOCIAL INVESTMENT AND ECONOMIC DEVELOPMENT FUND FOR THE AMERICAS

''SEC. 499H. AUTHORIZATION OF ASSISTANCE.

''(a) STATEMENT OF POLICY.—It is the policy of the United States—

''(1) to promote market-based principles, economic integration, social development, and trade in and between countries of the Americas by—

''(A) nurturing public-private partnerships and microenterprise development;

''(B) improving the quality of life and investing in human capital, specifically targeting education, health and disease prevention, nutrition, and housing;

''(C) strengthening the rule of law through improved efficiency and transparency in government services and increasing civil society participation in government; and

''(D) reducing poverty and eliminating the exclusion of marginalized populations, including people of African descent, indigenous groups, women, and people with disabilities; and

''(2) to establish an investment fund for the Western Hemisphere to advance the national interests of the United States, directly improve the lives of the poor and marginalized, encourage broad-based economic growth while protecting the environment, build human capital and knowledge, support meaningful participation in democratic institutions and processes, and promote peace and justice in the Americas.

''(b) IN GENERAL.—The President, acting through the Administrator of the United States Agency for International Development, shall provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere by—

''(1) nurturing public-private partnerships and microenterprise development;

''(2) improving the quality of life and investing in human capital, specifically targeting education, health and disease prevention, nutrition, and housing;

''(3) strengthening the rule of law through improved efficiency and transparency in government services and increasing civil society participation in government; and

''(4) reducing poverty and eliminating the exclusion of marginalized populations, including people of African descent, indigenous groups, women, and people with disabilities.

''(c) TERMS AND CONDITIONS.—Assistance under this chapter may be provided on such other terms and conditions as the President may determine, consistent with the goal of promoting economic and social development.

''SEC. 499I. TECHNICAL REVIEW COMMITTEE.

''(a) IN GENERAL.—There is established within the United States Agency for International Development a technical review committee.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The President, by and with the advice and consent of the Senate, shall appoint to serve on the technical review committee—

''(A) individuals with technical expertise with respect to the development projects, including grassroots development of Latin America and the Caribbean; and

''(B) citizens of the United States with technical expertise with respect to development projects and business experience.

''(2) CRITERIA FOR APPOINTMENT.—Technical expertise shall be the sole criterion in making appointments to the technical review committee.

''(c) DUTIES.—The technical review committee shall review all projects proposed for funding using assistance provided under section 499H(a), and make recommendations to the President with respect to the guidelines to be used in evaluating project proposals and the suitability of the proposed projects for funding.

''(d) CONFLICTS OF INTEREST.—A member of the technical review committee shall not be permitted to review an application submitted by an organization with which the member has been or is affiliated.

''SEC. 499J. CONSULTATIVE COMMITTEE.

''(a) IN GENERAL.—A country that receives assistance under this chapter shall establish a Consultative Committee to make recommendations regarding how such assistance should be used to carry out the policy set out in section 499H(a).

''(b) MEMBERSHIP.—A Consultative Committee should include individuals from civil society organizations that represent or have experience in working in the following:

''(1) Marginalized populations.

''(2) Trade and small farmer unions.

''(3) Rural development and agrarian reform.

''(4) Microenterprise and grassroots development.

''(5) Access to government social services.

''(6) Rule of law and government reform.

''(c) DUTIES.—A Consultative Committee for a country shall—

''(1) make recommendations to the technical review committee established under section 499I and to the appropriate country mission of the United States Agency for International Development on projects proposed to receive assistance under section 499H(a) that affect such country;

''(2) have access documents and other information related to project proposals and funding decisions that affect such country; and

''(3) develop and publish rules and procedures under which the Committee will carry out its duties.

''(d) CONFLICTS OF INTEREST.—A member of the Consultative Committee may not be permitted to review an application submitted by an organization with which the member has been or is affiliated.

''SEC. 499K. REPORT.

''The President shall prepare and transmit to the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and other appropriate congressional committees an annual report on the specific programs, projects, and activities carried out under this chapter during the preceding year, including an evaluation of the results of such programs, projects, and activities.

''SEC. 499L. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter $250,000,000 for each of the fiscal years 2006 through 2010.

''(b) ADDITIONAL AUTHORITIES.—Amounts appropriated pursuant to subsection (a)—

''(1) may be referred to as the 'United States Social Investment and Economic Development Fund for the Americas';

''(2) are authorized to remain available until expended; and

''(3) are in addition to amounts otherwise available for such purposes.

''(c) FUNDING LIMITATION.—Not more than 7 percent of the amounts appropriated pursuant to subsection (a) for a fiscal year may be used for administrative expenses.''.

SEC. 4. AMENDMENT TO THE INTER-AMERICAN DEVELOPMENT BANK ACT.

The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end the following:

''SEC. 39. SOCIAL INVESTMENT AND ECONOMIC DEVELOPMENT FUND FOR THE AMERICAS.

''(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to use the voice, vote, and influence of the United States to urge the Bank to establish an account to be known as the 'Social Investment and Economic Development Fund for the Americas' (in this section referred to as the 'Fund'), which is to be operated and administered by the Board of Executive Directors of the Bank consistent with subsection (b). The United States Governor of the Bank may vote for a resolution transmitted by the Board of Executive Directors which provides for the establishment of such an account, and the operation and administration of the account consistent with subsection (b).

''(b) GOVERNING RULES.—

''(1) USE OF FUNDS.—The Fund shall be used to provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere by—

''(A) nurturing public-private partnerships and microenterprise development;

''(B) improving the quality of life and investing in human capital, specifically targeting education, health and disease prevention, nutrition, and housing;

''(C) strengthening the rule of law through improved efficiency and transparency in government services and increasing civil society participation in government; and

''(D) reducing poverty and eliminating the exclusion of marginalized populations, including people of African descent, indigenous groups, women, and people with disabilities.

''(2) APPLICATION FOR FUNDING THROUGH A COMPETITIVE PROCESS.—Any interested person or organization may submit an application for funding by the Fund.

''(3) TECHNICAL REVIEW COMMITTEE.—

''(A) IN GENERAL.—The Fund shall have a technical review committee.

''(B) MEMBERSHIP.—

''(i) IN GENERAL.—The Board of Executive Directors of the Bank shall appoint to serve on the technical review committee individuals with technical expertise with respect to the development of Latin America and the Caribbean.

''(ii) CRITERIA FOR APPOINTMENT.—Technical expertise shall be the sole criterion in making appointments to the technical review committee.

''(C) DUTIES.—The technical review committee shall review all projects proposed for funding by the Fund, and make recommendations to the Board of Executive Directors of the Bank with respect to the guidelines to be used in evaluating project proposals and the suitability of the proposed projects for funding.

''(D) CONFLICTS OF INTEREST.—A member of the technical review committee shall not be permitted to review an application submitted by an organization with which the member has been or is affiliated.

''(4) REVIEW OF PROPOSED PROJECTS.—Not more frequently than once each year, the Board of Executive Directors of the Bank shall review and make decisions on applications for projects to be funded by the Fund, in accordance with procedures which provide for transparency. The Board of Executive Directors shall provide advance notice to all interested parties of any date on which such a review will be conducted.

''(5) CONSULTATIVE COMMITTEE.—

''(A) IN GENERAL.—Each country that receives assistance under this section shall establish a Consultative Committee to make recommendations regarding how such assistance should be used to carry out the policy set out in section 2(b) of the Social Investment and Economic Development Fund for the Americas Act of 2005.

''(B) MEMBERSHIP.—A Consultative Committee should include individuals from civil society organizations that represent or have experience in the following:

''(i) Marginalized populations.

''(ii) Trade and small farmer unions.

''(iii) Rural development and agrarian reform.

''(iv) Microenterprise and grassroots development.

''(v) Access to government social services.

''(vi) Rule of law and government reform.

''(C) DUTIES.—A Consultative Committee in a country shall—

''(i) make recommendations to the technical review committee established under paragraph (3) and appropriate country representative of the Bank on projects to receive assistance provided under this section that affect such country;

''(ii) have access documents and other information related to project proposals and funding decisions that affect such country; and

''(iii) develop and publish rules and procedures under which the Committee will carry out its duties.

''(D) CONFLICTS OF INTEREST.—A member of a Consultative Committee may not be permitted to review an application submitted by an organization with which the member has been or is affiliated.

''(c) CONTRIBUTION AUTHORITY.—To the extent and in the amounts provided in advance in appropriations Acts, the United States Governor of the Bank may contribute $1,250,000,000 to the Fund.

''(d) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the contribution authorized by subsection (c), there are authorized to be appropriated for payment to the Secretary of the Treasury $250,000,000 for each fiscal year beginning with the fiscal year in which the resolution described in subsection (a) is adopted.

''(2) ADDITIONAL AUTHORITIES.—Amounts appropriated pursuant to paragraph (1)—

''(A) are authorized to remain available until expended; and

''(B) are in addition to amounts otherwise available for such purposes.

''(3) FUNDING LIMITATION.—Not more than 7 percent of the amounts appropriated pursuant to paragraph (1) for a fiscal year may be used for administrative expenses.''.

SEC. 5. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the countries of the Western Hemisphere should collectively provide assistance equal to the amount of United States bilateral assistance provided under chapter 13 of part I of the Foreign Assistance Act of 1961, as added by section 3 of this Act, and multilateral assistance provided by the Social Investment and Economic Development Fund for the Americas under section 39 of the Inter-American Development Bank Act, as added by section 4 of this Act, for the same purpose for which such assistance was provided;

(2) funds authorized to be appropriated to carry out this Act or the amendments made by this Act should be in addition to funds otherwise made available on an annual basis to countries in the Americas pursuant to other United States foreign assistance programs; and

(3) it should be the policy of the United States to seek to increase the amount of assistance provided to the countries of the Americas from the United States and other members of the Inter-American Development Bank for a fiscal year beginning after the date of the enactment of this Act to an amount that is more than such amount provided during fiscal years beginning prior to such date.

By Mr. REED:

S. 684. A bill to amend the Natural Gas Act to provide additional requirements for the siting, construction, or operation of liquefied natural gas import facilities; to the Committee on Energy and Natural Resources.

Mr. REED. Mr. President, today I introduce the Liquefied Natural Gas Safety and Security Act of 2005.

The siting of liquefied natural gas (LNG) import terminals is an issue that has taken on critical importance for me and for the people of Rhode Island in recent months, as the Federal Energy Regulatory Commission (FERC) is now considering proposals by KeySpan Energy and Weaver's Cove Energy to establish LNG marine terminals in Providence, RI and Fall River, MA, respectively.

I recognize that natural gas is an important and growing component of New

England's and the Nation's energy supply, and that imported LNG offers a promising new supply source to complement our domestic natural gas supplies. In a post-September 11 world, however, we must consider the substantial safety and security risks associated with siting LNG marine terminals in urban communities and requiring LNG tankers to pass within close proximity to miles of densely populated coastline.

The LNG Safety and Security Act would address these concerns by improving FERC's siting process, requiring closer collaboration between FERC and the Coast Guard, and protecting States' permitting rights under Federal and State law.

First, the bill would improve FERC's approval process for LNG terminals. Instead of reviewing proposed LNG projects on a first come-first served basis, the bill would require FERC to work with states and the Coast Guard to pursue a regional approach to LNG terminal siting, including a review of offshore and remote sites and a determination of how many LNG terminals a region needs. To address the substantial new costs faced by state and local agencies responsible for security and safety at the LNG terminal and along shipping routes, the bill would require the developer to create a cost-sharing plan describing direct cost reimbursements to these agencies. To make sure that FERC addresses all relevant safety and security issues in its Final Environmental Impact Statement (EIS) for an LNG terminal—and that the public has access to this information before FERC makes a final decision—the bill requires FERC to await the completion of an Incident Action Plan by the Coast Guard before issuing a Final EIS. It would require FERC to incorporate the non-security sensitive components of the Incident Action Plan into the Final EIS, including all safety and security resource requirements identified by the Coast Guard.

Second, to ensure that States continue to have the authority to establish meaningful safety and security standards and to protect their fragile coastal environments, the bill requires FERC to comply with Federal laws that may be enforced by States, including the National Historic Preservation Act, the Coastal Zone Management Act, the Clean Water Act, and the Clean Air Act; clarifies the right of a State to review an application to site an LNG facility under any of these laws; and establishes that FERC has no authority to preempt a State permitting determination under federal or state law.

Third, to ensure that the Department of Transportation's safety standards for LNG terminals truly encourage remote siting as Congress intended, the bill requires the Secretary of Transportation to issue new regulations establishing standards to promote the remote siting of LNG terminals.

Finally, to protect coastal communities along LNG shipping routes, the bill requires the Coast Guard to issue regulations establishing thermal and vapor exclusion zones for vessels transporting LNG, based on existing DOT regulations for LNG terminals on land.

I again want to emphasize that I recognize LNG's important role in the energy infrastructure of Rhode Island and the Nation, and I look forward to working with my colleagues to ensure reliable supplies of natural gas to our homes and businesses without siting LNG import terminals in densely populated urban areas. I am confident that we can achieve this goal by requiring FERC and other federal agencies to explore a broad list of alternatives—including offshore LNG facilities—to bring more natural gas to our communities while minimizing the risk to our citizens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Liquefied Natural Gas Safety and Security Act of 2005''.

SEC. 2. SITING OF LIQUEFIED NATURAL GAS IMPORT FACILITIES.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

''(d)(1) Before issuing an order authorizing an applicant to site, construct, expand, or operate a liquefied natural gas import facility, the Commission shall require the applicant, in cooperation with the Commandant of the Coast Guard and State and local agencies that provide for the safety and security of the liquefied natural gas import facility and any vessels that serve the facility, to develop a cost-sharing plan.

''(2) A cost-sharing plan developed under paragraph (1) shall include a description of any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety—

''(A) at the liquefied natural gas import facility; and

''(B) in proximity to vessels that serve the facility.

''(e)(1) In this subsection, the term 'region' means a census region designated by the Bureau of the Census as of the date of enactment of this subsection.

''(2) Not later than 90 days after the date of enactment of this subsection and annually thereafter, the Commission shall—

''(A) review all applications for the siting, construction, expansion, or operation of a liquefied natural gas import facility in a region that are pending with the Commission;

''(B) consult with States in the region to identify remote sites for the development of potential liquefied natural gas import facilities in the region; and

''(C) in collaboration with the Commandant of the Coast Guard, review—

''(i) any offshore liquefied natural gas projects proposed for a region; and

''(ii) other potential offshore sites for the development of liquefied natural gas.

''(3) Based on the reviews and consultations under paragraph (1), the Commission shall determine—

''(A) whether liquefied natural gas import facilities are needed in a region; and

''(B) if the Commission determines under subparagraph (A) that liquefied natural gas import facilities are needed for a region, the number of liquefied natural gas import facilities that are needed for the region.

''(4) The Commission shall cooperate with the Commandant of the Coast Guard and States to ensure that—

''(A) the Commission approves only the number of liquefied natural gas import facilities that are needed for a region, as determined under paragraph (3)(B); and

''(B) any liquefied natural gas import facilities approved under subparagraph (A) are sited in locations that provide maximum safety and security to the public.

''(f)(1) Notwithstanding any other provision of law, the Commission shall not issue a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed liquefied natural gas facility before the date on which—

''(A) the applicant completes—

''(i) a security assessment for the proposed facility; and

''(ii) a security plan for the proposed facility; and

''(B) the Commandant of the Coast Guard completes an incident action plan that identifies the resources needed to support appropriate air, land, and sea security measures during the transit and offload of a liquefied natural gas vessel.

''(2) The Commission shall incorporate into the final environmental impact statement or similar analysis the non-security sensitive components of the incident action plan and all other safety and security resource requirements identified by the Commandant of the Coast Guard for a proposed liquefied natural gas import facility.

''(g)(1) For purposes of reviewing and approving or disapproving an application to site, construct, or operate a liquefied natural gas import facility, the Commission shall—

''(A) consult with the State in which the facility is proposed to be located; and

''(B) comply with all applicable Federal laws, including—

''(i) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

''(ii) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

''(iii) sections 401 and 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342(b)); and

''(iv) sections 107, 111(c), and 116 of the Clean Air Act (42 U.S.C. 7401, 7411(c), 7416).

''(2) Nothing in this section precludes or denies the right of any State to review an application to site, construct, or operate a liquefied natural gas import facility under—

''(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

''(B) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

''(C) sections 401 and 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342(b)); and

''(D) sections 107, 111(c), and 116 of the Clean Air Act (42 U.S.C. 7401, 7411(c), 7416).

''(3) Notwithstanding any other provision of law, the Commission shall have no authority to preempt a State permitting determination with respect to a liquefied natural gas import facility that is made under Federal or State law.''.

SEC. 3. STANDARDS FOR LIQUEFIED NATURAL GAS PIPELINE FACILITIES.

Section 60103 of title 49, United States Code, is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following:

''(e) REMOTE SITING STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing standards to promote the remote siting of liquefied natural gas pipeline facilities.''.

SEC. 4. THERMAL AND VAPOR DISPERSION EXCLUSION ZONES.

As soon as practicable after the date of enactment of this Act, the Commandant of the Coast Guard shall issue regulations establishing thermal and vapor dispersion exclusion zone requirements for vessels transporting liquefied natural gas that are based on sections 193.2057 and 193.2059 of title 49, Code of Federal Regulations (or any successor regulations).

By Mr. AKAKA:

S. 685. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, last year, the Pension Benefit Guaranty Corporation, PBGC, announced that it was moving to assume responsibility for the pensions of more than 14,000 active and retired pilots at United Airlines. Today, the Air Line Pilots Association, which represents 6,400 active United pilots, is trying to negotiate an alternative to such a takeover.

Mr. President, one of the reasons I am here today talking about United's pilots is that they are at risk of losing a significant amount of their pension, not just because the PBGC may be taking over their pension, but because of the age that they are mandated to retire. While I believe that Congress needs to address the issue of underfunded pension plans, I believe that it is also important for us to address an inequity with airline pilots that are mandated to retire at age 60.

The bill that I introduced in the 108th Congress, and am reintroducing today, will ensure the fair treatment of commercial airline pilot retirees. The Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act will lower the age requirement to receive the maximum pension benefits allowed by Pension Benefit Guaranty Corporation to age 60 for pilots, who are mandated by the Federal Aviation Administration, FAA, to retire before age 65.

Again, with the airline industry experiencing severe financial distress, we need to enact this legislation to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. My bill will slightly alter Title IV ofthe Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to take into account the fact that pilots are required to retire at the age of 60, when calculating their benefits.

The Pension Benefit Guaranty Corporation was established to ensure that workers with defined benefit pension plans are able to receive some portion of their retirement income in cases where the employer does not have enough money to pay for all of the benefits owed. After the employer proves to the PBGC that the business is financially unable to support the plan, the PBGC takes over the plan as a trustee and ensures that the current and future retirees receive their pension benefits within the legal limits. Four of the ten largest claims in PBGC's history have been for airline pension plans. Although airline employees account for only two percent of participants historically covered by the PBGC, they have constituted approximately 17 percent of claims. For example, Eastern Airlines, Pan American, Trans World Airlines, and US Airways have terminated their pension plans and their retirees rely on the PBGC for their basic pension benefits.

The FAA requires commercial aviation pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the PBGC because they are required to retire before the age of 65. Herein lies the problem. Mr. President, if pilots want to work beyond the age 60, they have to request a waiver from the FAA. It is my understanding that the FAA does not grant many of these waivers, and I have even heard from some pilots that the FAA has never granted these waivers. Therefore, most of the pilots, if not all, do not receive the maximum pension guarantee because they are forced to retire at age 60.

The maximum guaranteed pension at the age of 65 for plans that terminate in 2003 is $43,977.24. However, the maximum pension guarantee for a retiree is decreased to $28,585.20 if a participant retires at the age of 60. This significant reduction in benefits puts pilots in a difficult position. With drastically reduced pensions and a prohibition on reentering the piloting profession because of age, many pilots are subjected to undue hardship. While it is my sincere hope that existing airlines will be able to maintain their pension programs and that the change this bill makes will not be needed for any additional airline pension programs, I believe that my legislation is necessary to ensure that, at the minimum, airline pilots are not unfairly penalized for their employer's ability to maintain a pension plan. My legislation ensures that pilots can obtain the maximum PBGC benefit without being unfairly penalized for having to retire at 60, if their pension plan is terminated.

I urge my colleagues to support this bill. I ask that the text of my bill be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act''.

SEC. 2. AGE REQUIREMENT FOR EMPLOYEES.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: ''If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to benefits payable on or after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 84—CONDEMNING VIOLENCE AND CRIMINALITY BY THE IRISH REPUBLICAN ARMY IN NORTHERN IRELAND

Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. DODD, Mrs. CLINTON, Mr. BIDEN, Mr. LEAHY, Mr. LAUTENBERG, Mr. SMITH, and Mr. GREGG) submitted the following resolution; which was considered and agreed to:

S. RES. 84

Whereas on January 30, 2005, a Catholic citizen of Belfast, Northern Ireland, Robert McCartney, was brutally murdered by members of the Irish Republican Army, who attempted to cover-up the crime and ordered all witnesses to be silent about the involvement of Irish Republican Army members;

Whereas the sisters of Robert McCartney, Catherine McCartney, Paula Arnold, Gemma McMacken, Claire McCartney, and Donna Mary McCartney, and his fiancée, Bridgeen Karen Hagans, refused to accept the code of silence and have bravely challenged the Irish Republican Army by demanding justice for the murder of Robert McCartney;

Whereas when outcry over the murder increased, the Irish Republican Army expelled 3 members, and 7 members of Sinn Fein, the political wing of the Irish Republican Army, were suspended from the party;

Whereas the leadership of Sinn Fein has called for justice, but has not called on those responsible for the murder or any of those who witnessed the murder to cooperate directly with the Police Service of Northern Ireland;

Whereas on March 8, 2005, the Irish Republican Army issued an outrageous statement in which it said it ''was willing to shoot the killers of Robert McCartney''; and

Whereas peace and violence cannot coexist in Northern Ireland: Now, therefore, be it

Resolved, That—

(1) the Senate joins the people of the United States in deploring and condemning violence and criminality by the Irish Republican Army in Northern Ireland; and

(2) it is the sense of the Senate that—

(A) the sisters and fiancée of Robert McCartney deserve the full support of the United States in their pursuit of justice;

(B) the leadership of Sinn Fein should insist that those responsible for the murder and witnesses to the murder cooperate directly with the Police Service of Northern Ireland and be protected fully from any retaliation by the Irish Republican Army; and

(C) the Government of the United States should offer all appropriate assistance to law enforcement authorities in Northern Ireland to see that the murderers of Robert McCartney are brought to justice.

SENATE RESOLUTION 85—DESIGNATING JULY 23, 2005, AND JULY 22, 2006, AS ''NATIONAL DAY OF THE AMERICAN COWBOY''

Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, and Mr. ENZI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 85

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, and July 22, 2006, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. THOMAS. Mr. President, I rise today to submit a resolution designating July 23, 2005, and July 26, 2006, as ''National Day of the American Cowboy.''

Although cowboys are typically characterized as young, single men, those of us who come from the West know that cowboys come in any age, race, marital status, and gender. One 19th-century definition described ''cowboy'' as ''anybody with guts and a horse.'' I personally believe trying to define a cowboy is like trying to rope the wind, but you certainly recognize one when you see them.

The Cowboy played a significant role in American history, specifically in establishing the American West. After the Civil War, there was an acute shortage of beef in the northern States. Western ranchers were burdened with an abundance of cattle and no railroads on which to ship them to market. Realizing the immense profit to be made, these cattlemen looked for the nearest railheads. Thus, began the era of the long cattle drive and the Cowboy.

As a result of these drives, cow towns sprung up at cattle shipping points. These areas began to grow and thrive as western communities. Even after the cattle drive era passed, many cow towns remained solid business and farming communities. Many remain so to this day.

The Cowboy continues to impact America through our economy and culture. Currently, there are approximately 800,000 ranchers conducting business in every State. These folks contribute to the economic well being of nearly every county in the Nation. Every 1 dollar in cattle sales generates about 5 dollars in additional U.S. business activity. Outside of business, cowboys also contribute significantly to humanitarian causes. The Professional Rodeo Cowboys Association's activities alone raise millions of dollars for local and national charities each year.

Culturally, Americans have always idolized cowboys and their way of life. Most of us have fond memories of playing cowboys and outlaws, hearing stories of Buffalo Bill Cody's famous Wild West Show, or watching cowboy icons such as Roy Rogers, Dale Evans, Gene Autry and John Wayne. Western publications, music, television shows, movies and sporting events remain as abundant and popular as ever. In fact, rodeo, a sport which developed from the skills cowboys needed in their daily routine, is the sixth most watched sport in America.

Our country looks to cowboys as role models because we admire their esteemed and enduring code of conduct. Gene Autry's Cowboy Code does a nice job of illustrating the way a cowboy chooses to live. Cowboys are honest; they do not go back on their word. They have integrity and courage in the face of danger. Cowboys respect others, defend those who cannot defend themselves and hold their families dear. They are good stewards of the land and all its creatures, possess a strong work ethic, and are loyal to their country. The Cowboy lives his or her life in a way most cannot help but admire.

In my State, you do not have to go to the movie theater or a rodeo to see a cowboy. You see them every day on the street, in the grocery store, or driving into town from their ranches. Many of the Wyoming cowboys you see today are decedents of the cowboys that braved the frontier before Wyoming was a State. Like those before them, these folks still enjoy Wyoming's open spaces, know the satisfying feeling at the end of a good, hard day at work, and appreciate a smile or tip of the hat from a friendly neighbor. These westerners feel at home in Wyoming because they know it was, is and always will be cowboy country.

I know my State would not be the same without the contributions of cowboys, past and present, and I am sure many of my colleagues feel the same way. It is time for the American Cowboy to be recognized.

SENATE RESOLUTION 86—DESIGNATING AUGUST 16, 2005, AS ''NATIONAL AIRBORNE DAY''

Mr. HAGEL (for himself, Mr. BINGAMAN, Ms. CANTWELL, Mr. BURNS, Mr. INOUYE, Mr. JOHNSON, Mrs. DOLE, Mrs. BOXER, Ms. LANDRIEU, Mr. ALEXANDER, Ms. SNOWE, Mrs. CLINTON, Mr. REID, Mr. COCHRAN, Mr. GREGG, Mr. BURR, Mr. ISAKSON, Mr. HATCH, and Mr. REED) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 86

Whereas the airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16, 2005, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute;

Whereas the United States experiment of airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July of 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities;

Whereas among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd,

507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Battalions, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II provided a basis of evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf Region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment which, together with other units, comprise the quick reaction force of the Army's XVIII Airborne Corps when not operating separately under a regional combatant commander;

Whereas that modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance units, Navy SEALs, Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command;

Whereas in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas in the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault) and the 173rd Airborne Brigade, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affair missions, and assisting in establishing democracy in Iraq.

Whereas the airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded;

Whereas of the members and former members of the United States combat airborne forces, all have achieved distinction by earning the right to wear the airborne's ''Silver Wings of Courage'', thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operation forces, and (in former days) glider troops; and

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2005, as the 65th anniversary of the first official jump by the Army Parachute Test Platoon: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2005, as ''National Airborne Day''; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe ''National Airborne Day'' with appropriate programs, ceremonies, and activities.

Mr. HAGEL. Mr. President, on behalf of Senators BINGAMAN, CANTWELL, BURNS, INOUYE, JOHNSON, DOLE, BOXER, LANDRIEU, ALEXANDER, SNOWE, CLINTON, REID, COCHRAN, BURR, ISAKSON, HATCH and REED, I am proud to submit this Senate Resolution which designates August 16, 2005 as ''National Airborne Day.'' This date marks the 65th anniversary of the first official jump by the Army Parachute Test Platoon.

On June 25, 1940, the War Department authorized the Parachute Test Platoon to experiment with the potential use of airborne troops. The Parachute Test Platoon, which was composed of 48 volunteers, performed the first official Army parachute jump on August 16, 1940.

The success of the Platoon led to the formation of a large and successful airborne contingent that has served from World War II until the present. The 11th, 13th, 17th, 82nd, and 101st Airborne Divisions and numerous other regimental and battalion size airborne units were also organized following the success of the Parachute Test Platoon.

In the last 65 years, these airborne forces have performed in important military and peace-keeping operations all over the world, including Operation Iraqi Freedom, and it is only appropriate that we designate a day to salute the contributions they have made to our Nation.

Through passage of ''National Airborne Day,'' the Senate will reaffirm our support for the members of the airborne community.

I would like to thank Airborne veterans and Airborne units for their tireless commitment to our Nation's defense and for the ideals of duty, honor, country they embody. Airborne!

Mr. AKAKA. Mr. President, I rise today to submit a resolution designating April 2005, as Financial Literacy Month. As in previous years, this is a bipartisan effort, and I thank several of my colleagues for standing with me in advancing financial and economic literacy for our citizens.

We must raise public awareness about the importance of financial education in the U.S. and the serious consequences that may be associated with a lack of understanding about personal finances. Efforts to combat financial illiteracy are taking place in our school systems, across communities, in the business and banking sectors, and in Federal, State, and local government agencies, and I commend everyone in those areas for what they are doing.

For example, the School District of Philadelphia, PA, has implemented a financial literacy and financial independence curriculum for all grades. Hundreds of high school seniors in South Dakota will be getting a course in credit cards before they head off to college or start their first job. The National Black Caucus of States Institute recently launched a new financial literacy campaign to promote savings within the African American community in support of the expansion of financial education for African Americans. In my home State, the Hawaii Council on Economic Education continues to accomplish much in increasing the awareness of economic and financial literacy and pooling resources to combat economic and financial illiteracy. Entities like the HCEE are being assisted in their efforts for K through 12 education by funding through the Excellence in Economic Education Act. At the Federal Government level, I continue to work closely with the Financial Literacy and Education Commission, and Office of Financial Education in the Department of the Treasury, as they continue to develop a national strategy and work to improve and expand economic and financial literacy tools and resources to people in this country.

Furthermore in education, a 2004 survey of States by the National Council on Economic Education found that 49 States include economics, and 38 States include personal finance, in their elementary and secondary education standards. This is an increase from 48 States and 31 States, respectively, in 2002. In addition, a 2004 study by the Jump$tart Coalition for Personal Financial Literacy found an increase since 1997 in high school seniors' scores on an exam about credit cards, retirement funds, insurance, and other personal finance basics. While progress needs to be recognized, much more needs to be done. Although the NCEE survey found that more States have standards in place, only 26 States measure progress in economic education and 9 States in personal finance education through testing. And for the Jump$tart study, 65 percent of students still earned failing grades. These figures do not bode well for the first National Assessment of Educational Progress in economics, which will have several questions based in personal finance and will be conducted in 2006.

There are other signs that we can do even more in economic and financial literacy. Credit is readily and abundantly available in the form of many different products with a multitude of features. Marketing campaigns by financial institutions, finance companies, and other credit extending businesses are aggressively pursuing consumers and marketing available credit as the answer to instant gratification, to take that dream vacation, to buy that plasma television, or satisfy some other indulgence, without fully understanding the financial ramifications of their actions. These successful marketing initiatives have led to unprecedented levels of borrowing. In addition,

marketing campaigns are in place to promote the use of credit cards for small ticket, everyday items. Last year, Americans charged more than $35 billion in purchases of less than $10, up from $23.7 billion in 2003. Credit or debit card sales of transactions of $5 or less grew from $10.8 billion in 2003 to $13.5 billion in 2004. According to the Federal Reserve, consumer debt levels have more than doubled in the last 10 years. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt. Debt payments eat up more and more disposable income, while certain members of the financial industry encourage the use of more and more debt. Through financial literacy efforts, consumers are becoming aware of the pitfalls associated with excessive leverage and enter into debt relationships understanding the impact of additional debt on their current and future financial position. However, we must do more to enhance our efforts in this area.

Current statistics confirm that consumer debt remains more popular than ever. The present level of consumer debt, coupled with the lack of consumer savings, is indicative of the need to continue to support financial literacy in this country in an effort to get people to better understand the ramifications of their financial decisions. Part of the problem is that many people do not understand fully how consumer debt can overtake them. According to the Federal Reserve, as of year end 2004, there was over $2.1 trillion in consumer credit and $10.1 trillion in mortgage debt outstanding. Consumer credit increased 4.5 percent from its 2003 level. Of the total outstanding consumer debt, approximately $791 billion is revolving debt. Meanwhile, consumers paid out $24 billion in credit card fees last year, an 18 percent increase from 2003.

Compounding the debt pressures consumers are facing is the fact that they have cashed out an estimated $480 billion in home equity during the refinancing boom of 2001–2004. According to Freddie Mac, in hard-dollar terms, American homeowners converted $41 billion in real estate equity into spendable cash in the third quarter of 2004 alone. According to the Federal Reserve, as of June 30, 2004, Americans owed $766.2 billion on home equity loans and lines of credit, more than twice as much as in 1998. Lenders have reduced settlement fees and streamlined the closing process for loans dramatically, increasing the consumer friendliness and speed at which loans are originated. The days of using your home as a nest egg for life changing events, such as job loss, medical emergencies or divorce, are over. The home has become a catch all financing option, while increasing individual consumers' debt burdens. Meanwhile, consumer savings is at one of the lowest levels in history, 0.2 percent.

The combination of increasing debt burdens and marginal savings in America has created a catalyst for bankruptcy. Through November 2004, nearly 1.9 million individuals filed for bankruptcy in the U.S., modestly below last year's record level, but at a level that continues to merit concern. In considering that statistic, it is important to remember that this number consists of affected individuals. When you add in non-filing spouses and children, the number of people impacted by bankruptcy can more than double. In reviewing these numbers, I believe it is readily apparent that increased financial literacy is needed to offset unchecked consumer exuberance and aggressive marketing practices.

Beyond the statistics I just quoted, financial illiteracy is creating roadblocks to achieving part of the American dream, home ownership. Fannie Mae's 2003 National Housing Survey found that a significant roadblock to home ownership is lacking accurate information about the homebuying process. For the unhoused to become housed, a banking or financial relationship is part of the process. However, for the nation as a whole, approximately 10 percent of individual households remain ''unbanked.'' The unbanked are those who forego a relationship with a financial institution. By not participating in the financial mainstream, the unbanked miss out on the convenience, security, efficiency, and wealth-building opportunities that financial institutions offer. I think we can all agree that wealth-building and saving for the future are vital to the future economic success of the U.S. Extending financial literacy initiatives to all, from the unbanked, to students, to debt-burdened adults, is in all of our best interests.

We must be committed to providing people of all ages with the financial skills and insight to help them achieve financial independence and to make good choices when spending money and taking on additional debt. Prevention remains key, and education lies at the heart of prevention. I think my colleagues would agree that as society moves more and more toward an ''ownership society'' with the advent of health savings accounts and private accounts as currently proposed in the President's Social Security reform plan, the need for improving the financial literacy of this country is now, and the delivery and content of these literacy and economic programs needs to broaden and expand to all Americans, no matter the age.

I encourage my colleagues in the Senate to join me in commemorating efforts to forward financial and economic literacy in this country by recognizing April 2005 as Financial Literacy Month. But more than that, I hope that each of my colleagues becomes a champion of economic and financial literacy education so that all citizens in this country are prepared to contribute and participate in our evolving asset ownership society. I once again thank my colleagues from both sides of the aisle for cosponsoring this resolution, and I urge the support of our other colleagues as well.

SENATE RESOLUTION 87—EXPRESSING THE SENSE OF THE SENATE REGARDING THE RESUMPTION OF BEEF EXPORTS TO JAPAN

Mr. THUNE (for himself, Mr. CRAIG, Mr. INHOFE, Mr. BOND, Mr. DOMENICI, Mr. TALENT, Mr. CRAPO, Mr. BUNNING, Mr. JOHNSON, and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 87

Whereas the livestock industry in the United States, including farmers, ranchers, processors, and retailers, is a vital component of rural communities and the entire United States economy;

Whereas United States producers take pride in delivering an abundant and safe food supply to our Nation and to the world;

Whereas Japan has prohibited imports of beef from the United States since December 2003, when a single case of Bovine Spongiform Encephalopathy (BSE) was found in a Canadian-born animal in Washington State;

Whereas the United States agriculture industry as a whole has been negatively affected by the Japanese ban and the loss of a $1,700,000,000 export market to Japan;

Whereas the United States has undertaken a rigorous and thorough surveillance program and has exceeded internationally recognized standards of the World Organization for Animal Health (OIE) for BSE testing and has implemented safeguards to protect human and animal health;

Whereas Japan is a member of the OIE and has agreed to such standards;

Whereas the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization (WTO) calls for WTO members to apply sanitary and phytosanitary measures only to the extent necessary to protect human, animal, and plant health, based on scientific principles;

Whereas the United States and Japan concluded an understanding on October 23, 2004, that established a process that would lead to the resumption of imports of beef from the United States, yet such imports have not resumed;

Whereas despite the best efforts of officials within the United States Department of State, the United States Department of Agriculture, and the Office of the United States Trade Representative, the Government of Japan continues to delay imports of beef from the United States on the basis of factors not grounded in sound science and consumer safety;

Whereas the Agreement on the Application of Sanitary and Phytosanitary Measures does not provide to WTO members the right to discriminate and restrict trade arbitrarily; and

Whereas Japan has been provided a reasonable timeframe to establish appropriate trade requirements and resume beef trade with the United States, and the Government of Japan is putting a long and profound bilateral trading history at risk: Now, therefore, be it

Resolved, That it is the sense of the Senate that if the Government of Japan continues

to delay meeting its obligations to resume beef imports from the United States under the understanding reached with the United States on October 23, 2004, the United States Trade Representative should immediately impose retaliatory economic measures against Japan.

SENATE RESOLUTION 88—DESIGNATING APRIL 2005 AS ''FINANCIAL LITERACY MONTH''

Mr. AKAKA (for himself, Mr. SARBANES, Mr. CORZINE, Mr. BAUCUS, Mr. COCHRAN, Mr. CRAPO, Mr. DODD, Mr. DURBIN, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINCOLN, Mrs. MURRAY, Mr. PRYOR, Mr. SANTORUM, Mr. SCHUMER, Ms. STABENOW, and Mr. THOMAS) submitted the following resolution; which was considered and agreed to:

S. RES. 88

Whereas at the end of 2004, Americans carried 657,000,000 bank credit cards, 228,000,000 debit cards, and 550,000,000 retail credit cards;

Whereas based on the number of total United States households, there are now 6.3 bank credit cards, 2.2 debit cards, and 6.4 retail credit cards per household;

Whereas Americans consumer credit debt continues to increase, and has reached a level of in excess of $2,100,000,000,000 as of year end 2004, of which $791,000,000,000 is revolving consumer credit;

Whereas a United States Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt;

Whereas Americans owe $766,200,000,000 on home equity loans and lines of credit, more than twice as much as in 1998;

Whereas Americans converted $41,000,000,000 in real estate equity into spendable cash in the third quarter of 2004 alone;

Whereas the current level of personal savings as a percentage of personal income is at one of the lowest levels in history, 2 percent, a decline from 7.5 percent in the early 1980s;

Whereas through November 2004, 1,869,343 individuals filed for bankruptcy;

Whereas a 2002 Retirement Confidence Survey found that only 32 percent of workers surveyed have calculated how much money they will need to save for retirement;

Whereas only 30 percent of those surveyed in a 2003 Employee Benefit Trend Study are confident in their ability to make the right financial decisions for themselves and their families, and 25 percent have done no specific financial planning;

Whereas approximately 10 percent of individual households remain unbanked, i.e., not using mainstream, insured financial institutions;

Whereas expanding access to the mainstream financial system provides individuals with lower cost, safer options for managing their finances and building wealth;

Whereas a greater understanding and familiarity with financial markets and institutions will lead to increased economic activity and growth;

Whereas financial literacy empowers individuals to make wise financial decisions and reduces the confusion of an increasingly complex economy;

Whereas the Spring 2004 Student Monitor Financial Services Survey found that 46 percent of college students have a general purpose credit card in their own name and 37 percent carry over a credit card balance from month to month;

Whereas 45 percent of college students are in credit card debt, with the average debt being $3,066;

Whereas only 26 percent of 13- to 21-year-olds reported that their parents actively taught them how to manage money;

Whereas a 2004 study by the Jump$tart Coalition for Personal Financial Literacy found an increase in high school seniors' scores on an exam about credit cards, retirement funds, insurance, and other personal finance basics for the first time since 1997; however, 65 percent of students still failed the exam;

Whereas a 2004 survey of States by the National Council on Economic Education found that 49 States include economics, and 38 States include personal finance, in their elementary and secondary education standards, up from 48 States and 31 States, respectively, in 2002;

Whereas personal financial management skills and life-long habits develop during childhood;

Whereas personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens; and

Whereas Congress found it important enough to ensure coordination of Federal financial literacy efforts and formulate a national strategy that it established the Financial Literacy and Education Commission in 2003 and designated the Office of Financial Education of the Department of the Treasury to provide support for the Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2005 as ''Financial Literacy Month'' to raise public awareness about the importance of financial education in the United States and the serious consequences that may be associated with a lack of understanding about personal finances; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe the month with appropriate programs and activities.

SENATE RESOLUTION 89—CONGRATULATING THE MONTANA FFA ON ITS 75TH ANNIVERSARY AND CELEBRATING THE ACHIEVEMENTS OF MONTANA FFA MEMBERS

Mr. BURNS (for himself and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 89

Whereas in 2005, the Montana FFA, chartered in 1930, celebrates its 75th anniversary as a premier student development organization where members gain life and leadership skills;

Whereas more than 40,000 Montanans have been FFA members;

Whereas Montana FFA alumni provide outstanding leadership to agriculture and agribusiness at the local, State, and Federal levels;

Whereas the Montana FFA Association is the largest career and technical student organization in the State, with over 2,550 members from 75 chapters;

Whereas the mission of the FFA is to make a positive difference in the lives of students by developing their potential for premier leadership, personal growth, and career success through agriculture education;

Whereas FFA is an integral component of agriculture education in the public school system; and

Whereas the National FFA Organization is a federally-chartered organization:

Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Montana FFA on its 75th anniversary; and

(2) directs the Secretary of the Senate to transmit to the Montana FFA an enrolled copy of this resolution for appropriate display.

SENATE RESOLUTION 90—DESIGNATING THE WEEK OF MAY 1, 2005, AS ''HOLOCAUST COMMEMORATION WEEK''

Mr. LUGAR (for himself, Mr. BAYH, Mr. CORZINE, and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 90

Whereas the year 2005 marks the 60th anniversary of the end of the Holocaust, which was ruthlessly and tragically carried out by Nazi Germany under the leadership of Adolf Hitler and his collaborators;

Whereas the Holocaust involved the murder of millions of innocent Jewish men, women, and children along with millions of others, and an enormity of suffering inflicted on the many survivors through mistreatment, brutalization, violence, torture, slave labor, involuntary medical experimentation, death marches, and numerous other acts of cruelty that have come to be known as ''genocide'' and ''crimes against humanity''; and

Whereas in the past 60 years, the Holocaust has provided the peoples of the world with an object lesson in the importance of compassion, caring, and kindness; an awareness of the dangers inherent in bigotry, racism, intolerance, and prejudice; and an understanding of the importance of an appreciation of the sensitivity to diversity: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 1, 2005, as ''Holocaust Commemoration Week'';

(2) commemorates the occasion of the 60th anniversary of the end of World War II and the liberation of the concentration camps; and

(3) encourages all Americans to commemorate the occasion through reflection, acts of compassionate caring, and learning about the terrible consequences and lessons of the Holocaust.

SENATE RESOLUTION 91—URGING THE EUROPEAN UNION TO MAINTAIN ITS ARMS EXPORT EMBARGO ON THE PEOPLE'S REPUBLIC OF CHINA

Mr. SMITH (for himself, Mr. BIDEN, Mr. BROWNBACK, Mr. KYL, Mr. CHAMBLISS, Mr. ENSIGN, Mrs. DOLE, Mr. DEWINE, Mr. LIEBERMAN, and Mr. ALLEN) submitted the following resolution; which was considered and agreed to:

S. RES. 91

Whereas, on June 4, 1989, the Communist Government of the People's Republic of China ordered the People's Liberation Army to carry out an unprovoked, brutal assault

on thousands of peaceful and unarmed demonstrators in Tiananmen Square, resulting in hundreds of deaths and thousands of injuries;

Whereas, on June 5, 1989, President George H. W. Bush condemned these actions of the Government of the People's Republic of China, and the United States took several concrete steps to respond to the military assault, including suspending all exports of items on the United States Munitions List to the People's Republic of China;

Whereas, on June 27, 1989, the European Union (then called the European Community) imposed an arms embargo on the People's Republic of China in response to the Government of China's brutal repression of protestors calling for democratic and political reform;

Whereas the European Council, in adopting that embargo, ''strongly condemn[ed] the brutal repression taking place in China'' and ''solemnly request[ed] the Chinese authorities to put an end to the repressive actions against those who legitimately claim their democratic rights'';

Whereas the poor human rights conditions that precipitated the decisions of the United States and the European Union to impose and maintain their respective embargoes have not improved;

Whereas the Department of State 2004 Country Reports on Human Rights Practices states that, during 2004, ''[t]he [Chinese] Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses'';

Whereas, according to the same Department of State report, credible sources estimated that hundreds of persons remained in prison in the People's Republic of China for their activities during the June 1989 Tiananmen demonstrations;

Whereas the Government of the People's Republic of China continues to maintain that its crackdown on democracy activists in Tiananmen Square was warranted and remains unapologetic for its brutal actions, as demonstrated by that Government's handling of the recent death of former Premier and Communist Party General Secretary, Zhao Ziyang, who had been under house arrest for 15 years because of his objection to the 1989 Tiananmen crackdown;

Whereas, since December 2003, the European Parliament, the legislative arm of the European Union, has rejected in five separate resolutions the lifting of the European Union arms embargo on the People's Republic of China because of continuing human rights concerns in China;

Whereas the February 24, 2005, resolution passed by the European Parliament stated that the Parliament ''believes that unless and until there is a significant improvement in the human rights situation in China, it would be wrong for the EU to envisage any lifting [of] its embargo on arms sales to China, imposed in 1989'' and that it ''requests that the Commission formally oppose such a move when it is discussed in the [European] Council'';

Whereas the governments of a number of European Union member states have individually expressed concern about lifting the European Union arms embargo on the People's Republic of China, and several have passed resolutions of opposition in their national parliaments;

Whereas the European Union Code of Conduct on Arms Exports, as a non-binding set of principles, is insufficient to control European arms exports to the People's Republic of China;

Whereas public statements by some major defense firms in Europe and other indicators suggest that such firms intend to increase military sales to the People's Republic of China if the European Union lifts its arms embargo on that country;

Whereas the Department of Defense fiscal year 2004 Annual Report on the Military Power of the People's Republic of China found that ''[e]fforts underway to lift the European Union (EU) embargo on China will provide additional opportunities to acquire specific technologies from Western suppliers'';

Whereas the same Department of Defense report noted that the military modernization and build-up of the People's Republic of China is aimed at increasing the options of the Government of the People's Republic of China to intimidate or attack democratic Taiwan, as well as preventing or disrupting third-party intervention, namely by the United States, in a cross-strait military crisis;

Whereas the June 2004, report to Congress of the congressionally-mandated, bipartisan United States-China Economic and Security Review Commission concluded that ''there has been a dramatic change in the military balance between China and Taiwan,'' and that ''[i]n the past few years, China has increasingly developed a quantitative and qualitative advantage over Taiwan'';

Whereas the Taiwan Relations Act (22 U.S.C. 3301 et seq.) codifies in United States law the basis for continued relations between the United States and Taiwan, affirmed that the decision of the United States to establish diplomatic relations with the People's Republic of China was based on the expectation that the future of Taiwan would be determined by peaceful means;

Whereas the balance of power in the Taiwan Straits and, specifically, the military capabilities of the People's Republic of China, directly affect peace and security in the East Asia and Pacific region;

Whereas the Foreign Minister of Japan, Nobutaka Machimura, recently stated that Japan is opposed to the European Union lifting its embargo against the People's Republic of China and that ''[i]t is extremely worrying as this issue concerns peace and security environments not only in Japan but also in East Asia as a whole'';

Whereas the United States has numerous security interests in the East Asia and Pacific region, and the United States Armed Forces, which are deployed throughout the region, would be adversely affected by any Chinese military aggression;

Whereas the lifting of the European Union arms embargo on the People's Republic of China would increase the risk that United States troops could face military equipment and technology of Western or United States origin in a cross-strait military conflict;

Whereas this risk would necessitate a reevaluation by the United States Government of procedures for licensing arms and dual-use exports to member states of the European Union in order to attempt to prevent the reexport or retransfer of United States exports from such countries to the People's Republic of China;

Whereas the report of the United States-China Economic and Security Review Commission on the Symposia on Transatlantic Perspectives on Economic and Security Relations with China, held in Brussels, Belgium and Prague, Czech Republic from November 29, 2004, through December 3, 2004, recommended that the United States Government continue to press the European Union to maintain the arms embargo on the People's Republic of China and strengthen its arms export control system, as well as place limitations on United States public and private sector defense cooperation with foreign firms that sell sensitive military technology to China;

Whereas the lax export control practices of the People's Republic of China and the continuing proliferation of technology related to weapons of mass destruction and ballistic missiles by state-sponsored entities in China remain a serious concern of the Government of the United States;

Whereas the People's Republic of China remains a primary supplier of weapons to countries such as Burma and Sudan where, according to the United States Commission on International Religious Freedom, the military has played a key role in the oppression of religious and ethnic minorities;

Whereas the most recent Central Intelligence Agency Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, found that ''Chinese entities continued to work with Pakistan and Iran on ballistic missile-related projects during the second half of 2003,'' and that ''[d]uring 2003, China remained a primary supplier of advanced conventional weapons to Pakistan, Sudan, and Iran'';

Whereas, as recently as December 27, 2004, the Government of the United States determined that seven entities or persons in the People's Republic of China, including several state-owned companies involved in China's military-industrial complex, are subject to sanctions under the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) for sales to Iran of prohibited equipment or technology;

Whereas the authority under the Iran Nonproliferation Act of 2000 to impose sanctions on Chinese persons or entities was used 23 times in 2004; and

Whereas the assistance provided by these entities to Iran works directly counter to the efforts of the United States Government and several European governments to curb illicit weapons activities in Iran: Now, therefore, be it

Resolved, That the Senate—

(1) strongly supports the United States embargo on the People's Republic of China;

(2) strongly urges the European Union to continue its ban on all arms exports to the People's Republic of China;

(3) requests that the President raise United States objections to the potential lifting of the European Union arms embargo against the People's Republic of China in any upcoming meetings with European officials;

(4) encourages the Government of the United States to make clear in discussions with representatives of the national governments of European Union member states that a lifting of the European Union embargo on arms sales to the People's Republic of China would potentially adversely affect transatlantic defense cooperation, including future transfers of United States military technology, services, and equipment to European Union countries;

(5) urges the European Union—

(A) to strengthen, enforce, and maintain its arms embargo on the People's Republic of China and in its Code of Conduct on Arms Exports;

(B) to make its Code of Conduct on Arms Exports legally binding and enforceable in all European Union member states;

(C) to more carefully regulate and monitor the end-use of exports of sensitive military and dual-use technology; and

(D) to increase transparency in its arms and dual-use export control regimes;

(6) deplores the ongoing human rights abuses in the People's Republic of China; and

(7) urges the United States Government and the European Union to cooperatively develop a common strategy to seek—

(A) improvement in the human rights conditions in the People's Republic of China;

(B) an end to the military build-up of the People's Republic of China aimed at Taiwan;

(C) a permanent and verifiable end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of munitions, materials, and military equipment and the trade in such items involving countries, such as Burma and Sudan, whose armies have played a role in the perpetration of violations of human rights and of humanitarian law against members of ethnic and religious minorities;

(D) improvement in the administration and enforcement of export controls in the People's Republic of China; and

(E) an end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of technology related to conventional weapons, weapons of mass destruction, and ballistic missiles.

SENATE CONCURRENT RESOLUTION 20—EXPRESSING THE NEED FOR ENHANCED PUBLIC AWARENESS OF TRAUMATIC BRAIN INJURY AND SUPPORT FOR THE DESIGNATION OF A NATIONAL BRAIN INJURY AWARENESS MONTH

Mr. COCHRAN (for himself and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 20

Whereas traumatic brain injury is a leading cause of death and disability among children and young adults in the United States;

Whereas at least 1,400,000 people in the United States sustain a traumatic brain injury each year;

Whereas each year, more than 80,000 people in the United States sustain permanent lifelong disabilities from a traumatic brain injury, that can include the serious physical, cognitive, and emotional impairments;

Whereas every 21 seconds, a person in the United States sustains a traumatic brain injury;

Whereas at least 5,300,000 people in the United States currently live with permanent disabilities resulting from a traumatic brain injury;

Whereas most cases of traumatic brain injury are preventable;

Whereas traumatic brain injuries cost the Nation $56,300,000,000 annually;

Whereas the lack of public awareness is so vast that traumatic brain injury is known in the disability community as the Nation's ''silent epidemic'';

Whereas the designation of a National Brain Injury Awareness Month will work toward enhancing public awareness of traumatic brain injury; and

Whereas the Brain Injury Association of America has recognized March as Brain Injury Awareness Month: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the life-altering impact traumatic brain injury may have both on people living with the resultant disabilities and on their families;

(2) recognizes the need for enhanced public awareness of traumatic brain injury;

(3) supports the designation of an appropriate month as National Brain Injury Awareness Month; and

(4) encourages the people of the United States to observe National Brain Injury Awareness Month with appropriate programs and activities.

SENATE CONCURRENT RESOLUTION 21—EXPRESSING THE GRAVE CONCERN OF CONGRESS REGARDING THE RECENT PASSAGE OF THE ANTI-SECESSION LAW BY THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. ALLEN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 21

Whereas on December 9. 2003, President George W. Bush stated it is the policy of the United States to 'oppose any unilateral decision, by either China or Taiwan, to change the status quo';

Whereas in the past few years, the Government of the United States has urged both Taiwan and the People's Republic of China to maintain restraint;

Whereas the National People's Congress of People's Republic of China passed its anti-secession law on March 14, 2005, which constitutes a unilateral change to the status quo in the Taiwan Strait;

Whereas the passage of China's anti-secession law escalates tensions between Taiwan and the People's Republic of China and is an impediment to cross-strait dialogue;

Whereas the purpose of China's anti-secession law is to create a legal framework for possible use of force against Taiwan and mandates Chinese military action under certain circumstances, including when 'possibilities for a peaceful reunification should be completely exhausted';

Whereas the Department of Defense's Report on the Military Power of the People's Republic of China for Fiscal Year 2004 documents that, as of 2003, the Government of the People's Republic of China had deployed approximately 500 short-range ballistic missiles against Taiwan;

Whereas the escalating arms buildup of missiles and other offensive weapons by the People's Republic of China in areas adjacent to the Taiwan Strait is a threat to the peace and security of the Western Pacific area;

Whereas given the recent positive developments in cross-strait relations, including the Lunar New Year charter flights and new proposals for cross-strait exchanges, it is particularly unfortunate that the National People's Congress adopted this legislation;

Whereas since its enactment in 1979, the Taiwan Relations Act (22 U.S.C. 3301 et seq.), which codified in law the basis for continued commercial, cultural, and other relations between the people of the United States and the people of Taiwan, has been instrumental in maintaining peace, security, and stability in the Taiwan Strait;

Whereas section 2(b)(2) of the Taiwan Relations Act declares the 'peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern';

Whereas, at the time the Taiwan Relations Act was enacted into law, section 2(b)(3) of such Act made clear that the United States decision to establish diplomatic relations with the People's Republic of China rested upon the expectation that the future of Taiwan would be determined by peaceful means;

Whereas section 2(b)(4) of the Taiwan Relations Act declares it the policy of the United States to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

Whereas section 2(b)(6) of the Taiwan Relations Act declares it the policy of the United States 'to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan'; and

Whereas any attempt to determine Taiwan's future by other than peaceful means and other than with the express consent of the people of Taiwan would be considered of grave concern to the United States: Now, therefore, be it

Resolved by the Senate, the House of Representatives concurring, That it is the sense of the Congress that—

(1) the anti-secession law of the People's Republic of China provides a legal justification for the use of force against Taiwan, altering the status quo in the region, and thus is of grave concern to the United States;

(2) the President of the United States should direct all appropriate officials of the United States Government to reflect the grave concern with which the United States views the passage of China's anti-secession law in particular, and the growing Chinese military threats to Taiwan in general, to their counterpart officials in the Government of the People's Republic of China;

(3) the Government of the United States should reaffirm its policy that the future of Taiwan should be resolved by peaceful means and with the consent of the people of Taiwan; and

(4) the Government of the United States should continue to encourage dialogue between Taiwan and the People's Republic of China.

SENATE CONCURRENT RESOLUTION 22—CONGRATULATING BODE MILLER FOR WINNING THE 2004–2005 WORLD CUP OVERALL TITLE IN ALPINE SKIING

Mr. SUNUNU (for himself and Mr. GREGG) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 22

Whereas on March 12, 2005, Bode Miller became the first United States skier in 22 years to win the Alpine skiing World Cup overall title;

Whereas on the previous day Bode Miller won the World Cup super G title for the 2004–2005 season when he tied teammate Daron Rahlves for first place in the final super G race of the season;

Whereas Bode Miller won gold medals in the downhill and super G at the 2005 World Alpine Ski Championships in Bormio, Italy;

Whereas in the 2004–2005 season Bode Miller accomplished what only two other men have done in the history of the Alpine skiing World Cup by leading the overall standings from the season's start to finish;

Whereas Bode Miller finished the 2004–2005 World Cup season with seven victories and became only the second athlete to win in all four disciplines (slalom, giant slalom, super G, and downhill) in a single season;

Whereas Bode Miller was raised in Easton, New Hampshire, began skiing at age 3 at nearby Cannon Mountain, and began competing at age 11;

Whereas in 1990 Bode Miller became a competitive ski racer at Carrabassett Valley Academy in Maine at age 13 and debuted in World Cup competition in 1998, finishing 11th in his first race;

Whereas Bode Miller has skied in every World Cup race over the last three seasons;

Whereas Bode Miller's career accomplishments include the 2003–2004 World Cup giant slalom title, six World Cup victories in 2004, two gold medals and a silver medal at the

2003 World Alpine Ski Championships, two Olympic silver medals, and six U.S. National Championships gold medals; and

Whereas Bode Miller's 2004–2005 championship season helped the entire U.S. Ski Team complete its most successful season ever by finishing second in the final 2005 Nations Cup standings: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates Bode Miller for winning the 2004–2005 World Cup overall title in Alpine skiing and establishing himself as the top alpine skier in the world; and

(2) directs the Secretary of the Senate to make available an enrolled copy of this resolution to Bode Miller.

AMENDMENTS SUBMITTED AND PROPOSED

SA 225. Mr. TALENT (for himself, Mr. THUNE, Ms. STABENOW, Mr. WYDEN, Mr. JEFFORDS, Mr. BAUCUS, Mr. INHOFE, Mr. LEVIN, Mr. LIEBERMAN, Mr. WARNER, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

SA 226. Mr. THOMAS (for himself, Mr. CONRAD, Mr. THUNE, Mrs. MURRAY, Ms. CANTWELL, Mr. FEINGOLD, Mr. HARKIN, Mr. SALAZAR, Ms. COLLINS, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 227. Mr. BAYH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 228. Mr. BUNNING submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 229. Mr. GREGG (for Mr. FRIST) proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 230. Mr. COLEMAN proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 231. Mrs. CLINTON (for herself, Ms. COLLINS, Mr. LEVIN, Mr. SARBANES, Mrs. MURRAY, Mr. CORZINE, Mr. DODD, Ms. LANDRIEU, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. CANTWELL, Mr. OBAMA, Mr. KENNEDY, Mr. JEFFORDS, Mr. KERRY, Mr. BINGAMAN, Mr. AKAKA, Mr. PRYOR, Mr. INOUYE, Mrs. LINCOLN, Ms. STABENOW, Mr. SCHUMER, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 232. Mrs. LINCOLN (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 233. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 234. Mr. BAUCUS (for himself, Mr. CONRAD, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 235. Mr. COLEMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 236. Mr. DURBIN (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 237. Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 238. Mr. LEVIN (for himself, Mr. DEWINE, Ms. STABENOW, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 239. Mr. BIDEN (for himself, Mr. DORGAN, Mr. LEAHY, Mr. KENNEDY, Mr. SCHUMER, Mr. KOHL Mr. SALAZAR, Mrs. CLINTON, Mr. KERRY, Mr. NELSON of Florida, Mr. FEINGOLD, Mr. CARPER, Mr. DURBIN, Mr. SARBANES, Mr. REED, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. PRYOR, Mr. LEVIN, Mr. BYRD, Mr. CORZINE, Ms. MIKULSKI, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 240. Mr. BYRD (for himself and Mr. BAUCUS) proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 241. Mr. BUNNING proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 242. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 243. Mr. CONRAD proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 244. Mr. REID (for Mrs. CLINTON (for herself, Mr. REID, Mr. KERRY, Mr. CORZINE, Mrs. MURRAY, Mr. LAUTENBERG, and Mrs. FEINSTEIN)) proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 245. Mr. REED (for himself, Mr. KENNEDY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 246. Mr. REED (for himself, Mr. KENNEDY, Mr. FEINGOLD, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 247. Mr. REED (for himself, Mr. SARBANES, Mr. LEAHY, Mr. SCHUMER, Mr. KENNEDY, Ms. STABENOW, Mrs. CLINTON, Mr. DURBIN, Mrs. MURRAY, Mr. CORZINE, Mr. DODD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 248. Mr. ENSIGN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 249. Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 250. Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 251. Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 252. Mr. PRYOR (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 253. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. BINGAMAN, Mrs. MURRAY, Mr. TALENT, Mr. SMITH, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 254. Mr. SALAZAR (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. BINGAMAN, Mr. CRAIG, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 255. Mr. SALAZAR (for himself, Ms. COLLINS, Mr. DORGAN, Mr. OBAMA, Mr. CONRAD, Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, Mr. LEVIN, Mr. KENNEDY, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 256. Mr. CHAFEE (for himself, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, Mr. LEVIN, Mr. KENNEDY, Ms. SNOWE, Mr. DEWINE, Mr. LIEBERMAN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 257. Mrs. BOXER submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, supra.

SA 258. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra.

SA 259. Mrs. BOXER proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 260. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 261. Mr. CHAFEE (for himself, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, Mr. LEVIN, and Mr. KENNEDY) proposed an amendment to the concurrent resolution S. Con. Res. 18, supra.

SA 262. Mr. GREGG (for Mr. GRASSLEY) submitted an amendment intended to be proposed by Mr. Gregg to the concurrent resolution S. Con. Res. 18, supra.

SA 263. Mr. GRASSLEY (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, supra; which was ordered to lie on the table.

SA 264. Mr. FRIST proposed an amendment to the resolution S. Res. 43, designating the first day of April 2005 as ''National Asbestos Awareness Day''.

TEXT OF AMENDMENTS

SA 225. Mr. TALENT (for himself, Mr. THUNE, Ms. STABENOW, Mr. WYDEN, Mr. JEFFORDS, Mr. BAUCUS, Mr. INHOFE, Mr. LEVIN, Mr. LIEBERMAN, Mr. WARNER, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 39, lines 8 and 9 strike ''net new user-fee receipts related to the purposes of'' and insert ''receipts to''.

SA 226. Mr. THOMAS (for himself, Mr. CONRAD, Mr. THUNE, Mrs. MURRAY, Ms. CANTWELL, Mr. FEINGOLD, Mr. HARKIN, Mr. SALAZAR, Ms. COLLINS, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 18, line 16, increase the amount by $100,000,000.

On page 18, line 17, increase the amount by $100,000,000.

On page 24, line 16, decrease the amount by $100,000,000.

On page 24, line 17, decrease the amount by $100,000,000.

SA 227. Mr. BAYH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 56, after line 13 insert the following:

SEC. ___. POINT OF ORDER REQUIRING BUDGETING FOR EMERGENCY SPENDING.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget that does not include—

(1) a major functional category entitled ''Emergencies'';

(2) in the major functional category entitled ''Emergencies'', budget authority for each year covered by that resolution that is equal to the average annual amounts of budget authority appropriated for declared emergencies in the past 10 completed fiscal years and outlays for each year covered by that resolution equal to the outlays expended for declared emergencies in the past 10 completed fiscal years; and

(3) a provision that the budget authority and outlays included in the major functional category entitled ''Emergencies'' shall not be included in the amounts allocated to the committees on appropriations pursuant to section 302(a) of the Congressional Budget and Impoundment Control Act of 1974, but shall be included in the appropriate recommended levels and amounts in that resolution.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 228. Mr. BUNNING submitted an amendment intended to be proposed by him to be concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 9, decrease the amount by $0.

On page 3, line 10, decrease the amount by $4,800,000,000.

On page 3, line 11, decrease the amount by $12,500,000,000.

On page 3, line 12, decrease the amount by $14,000,000,000.

On page 3, line 13, decrease the amount by $15,600,000,000.

On page 3, line 14, decrease the amount by $17,000,000,000.

On page 3, line 18, decrease the amount by $0.

On page 3, line 19, decrease the amount by $4,800,000,000.

On page 3, line 20, decrease the amount by $12,500,000,000.

On page 3, line 21, decrease the amount by $14,000,000,000.

On page 4, line 1, decrease the amount by $15,600,000,000.

On page 4, line 2, decrease the amount by $17,000,000,000.

On page 4, line 23, decrease the amount by $0.

On page 4, line 24, decrease the amount by $4,800,000,000.

On page 4, line 25, decrease the amount by $12,500,000,000.

On page 5, line 1, decrease the amount by $14,000,000,000.

On page 5, line 2, decrease the amount by $15,600,000,000.

On page 5, line 3, decrease the amount by $17,000,000,000.

On page 5, line 6, increase the amount by $0.

On page 5, line 7, increase the amount by $4,800,000,000.

On page 5, line 8, increase the amount by $17,300,000,000.

On page 5, line 9, increase the amount by $31,300,000,000.

On page 5, line 10, increase the amount by $46,900,000,000.

On page 5, line 11, increase the amount by $70,923,000,000.

On page 5, line 14, increase the amount by $0.

On page 5, line 15, increase the amount by $4,800,000,000.

On page 5, line 16, increase the amount by $17,300,000,000.

On page 5, line 17, increase the amount by $31,300,000,000.

On page 5, line 18, increase the amount by $46,900,000,000.

On page 5, line 19, increase the amount by $70,923,000,000.

On page 30, line 16, increase the amount by $4,800,000,000.

On page 30, line 17, increase the amount by $63,900,000,000.

SA 229. Mr. GREGG (for Mr. FRIST) submitted an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

Beginning on page 58, strike line 11 and all that follows through page 61, line 24, and insert the following:

SEC. 504. SENSE OF THE SENATE REGARDING MEDICAID RECONCILIATION LEGISLATION CONSISTENT WITH RECOMMENDATIONS FROM THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Medicaid program provides essential health care and long-term care services to more than 50,000,000 low-income children, pregnant women, parents, individuals with disabilities, and senior citizens. It is a Federal guarantee that ensures the most vulnerable will have access to needed medical services.

(2) The Medicaid program will spend $189,000,000,000 in fiscal year 2006.

(3) During the period from fiscal year 2006 through fiscal year 2010, the Medicaid program will spend $1,100,000,000,000.

(4) Over the same period, spending for the Medicaid program will increase by 40 percent.

(5) Medicaid provides critical access to long-term care and other services for the elderly and individuals living with disabilities, and is the single largest provider of long-term care services. Medicaid also pays for personal care and other supportive services that are typically not provided by private health insurance or Medicare, but are necessary to enable individuals with spinal cord injuries, developmental disabilities, neurological degenerative diseases, serious and persistent mental illnesses, HIV/AIDS, and other chronic conditions to remain in the community, to work, and to maintain independence.

(6) Medicaid supplements the Medicare program for more than 6,000,000 low-income elderly or disabled Medicare beneficiaries, assisting them with their Medicare premiums and co-insurance, wrap-around benefits, and the costs of nursing home care that Medicare does not cover. The Medicaid program spent nearly $40,000,000,000 on uncovered Medicare services in 2002.

(7) This resolution assumes $163,000,000 in spending to extend Medicare cost-sharing under the Medicaid program for the Medicare part B premium for qualifying individuals through 2006.

(8) Medicaid provides health insurance for more than ¼ of America's children and is the largest purchaser of maternity care, paying for more than ⅓ of all the births in the United States each year. Medicaid also provides critical access to care for children with disabilities, covering more than 70 percent of poor children with disabilities.

(9) More than 16,000,000 women depend on Medicaid for their health care. Women comprise the majority of seniors (71 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have health coverage through Medicaid. Medicaid provides treatment for low-income women diagnosed with breast or cervical cancer in every State.

(10) Medicaid is the Nation's largest source of payment for mental health services, HIV/AIDS care, and care for children with special needs. Much of this care is either not covered by private insurance or limited in scope or duration. Medicaid is also a critical source of funding for health care for children in foster care and for health services in schools.

(11) Medicaid funds help ensure access to care for all Americans. Medicaid is the single largest source of revenue for the Nation's safety net hospitals, health centers, and nursing homes, and is critical to the ability of these providers to adequately serve all Americans.

(12) Medicaid serves a major role in ensuring that the number of Americans without health insurance, approximately 45,000,000 in 2003, is not substantially higher. The system of Federal matching for State Medicaid expenditures ensures that Federal funds will grow as State spending increases in response to unmet needs, enabling Medicaid to help buffer the drop in private coverage during recessions. More than 4,800,000 Americans lost employer-sponsored coverage between 2000 and 2003, during which time Medicaid enrolled an additional 8,400,000 Americans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Committee on Finance shall not report a reconciliation bill that achieves spending reductions that would—

(A) undermine the role the Medicaid program plays as a critical component of the health care system of the United States;

(B) cap Federal Medicaid spending, or otherwise shift Medicaid cost burdens to State or local governments and their taxpayers and health providers, forcing a reduction in access to essential health services for low-income elderly individuals, individuals with disabilities, and children and families; or

(C) undermine the Federal guarantee of health insurance coverage Medicaid provides, which would threaten not only the

health care safety net of the United States, but the entire health care system;

(2) the Secretary of Health and Human Services, working with bipartisan, geographically diverse members of the National Governors Association and in consultation with key stakeholders, shall make recommendations for changes to the Medicaid program that reflect the principles specified in paragraph (3); and

(3) the Committee on Finance, consistent with such recommendations, shall report a reconciliation bill that—

(A) allows any Medicaid savings to be shared by the Federal and State governments;

(B) would emphasize State flexibility through voluntary options for States; and

(C) would not cause Medicaid recipients to lose coverage.

SA 230. Mr. COLEMAN proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 16, line 15, increase the amount by $1,454,000,000.

On page 16, line 16, increase the amount by $29,080,000.

On page 16, line 20, increase the amount by $465,280,000.

On page 16, line 24, increase the amount by $610,680,000.

On page 17, line 3, increase the amount by $203,560,000.

On page 17, line 7, increase the amount by $72,700,000.

On page 17, line 16, increase the amount by $619,000,000.

On page 17, line 17, increase the amount by $359,020,000.

On page 17, line 21, increase the amount by $241,410,000.

On page 17, line 25, increase the amount by $12,380,000.

On page 18, line 4, increase the amount by $6,190,000.

On page 26, line 14, decrease the amount by $2,073,000,000.

On page 26, line 15, decrease the amount by $388,100,000.

On page 26, line 18, decrease the amount by $706,690,000.

On page 26, line 21, decrease the amount by $623,060,000.

On page 26, line 24, decrease the amount by $209,750,000.

On page 27, line 2, decrease the amount by $72,700,000.

SA 231. Mrs. CLINTON (for herself, Ms. COLLINS, Mr. LEVIN, Mr. SARBANES, Mrs. MURRAY, Mr. CORZINE, Mr. DODD, Ms. LANDRIEU, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. CANTWELL, Mr. OBAMA, Mr. KENNEDY, Mr. JEFFORDS, Mr. KERRY, Mr. BINGAMAN, Mr. AKAKA, Mr. PRYOR, Mr. INOUYE, Mrs. LINCOLN, Ms. STABENOW, Mr. SCHUMER, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $39,000,000.

On page 3, line 11, increase the amount by $526,000,000.

On page 3, line 12, increase the amount by $139,000,000.

On page 3, line 13, increase the amount by $70,000,000.

On page 3, line 19, increase the amount by $39,000,000.

On page 3, line 20, increase the amount by $526,000,000.

On page 3, line 21, increase the amount by $139,000,000.

On page 4, line 1, increase the amount by $70,000,000.

On page 4, line 7, increase the amount by $774,000,000.

On page 4, line 16, increase the amount by $39,000,000.

On page 4, line 17, increase the amount by $526,000,000.

On page 4, line 18, increase the amount by $139,000,000.

On page 4, line 19, increase the amount by $70,000,000.

On page 17, line 16, increase the amount by $774,000,000.

On page 17, line 17, increase the amount by $39,000,000.

On page 17, line 21, increase the amount by $526,000,000.

On page 17, line 25, increase the amount by $139,000,000.

On page 18, line 4, increase the amount by $70,000,000.

On page 30, line 16, decrease the amount by $39,000,000.

On page 30, line 17, decrease the amount by $774,000,000.

On page 48, line 6, increase the amount by $774,000,000.

On page 48, line 7, increase the amount by $39,000,000.

SA 232. Mrs. LINCOLN (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

Strike section 303 and insert the following:

SEC. 303. RESERVE FUND FOR HEALTHCARE COVERAGE FOR THE UNINSURED.

If the Committee on Health, Education, Labor, and Pensions or the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that expands group healthcare coverage for uninsured individuals in a manner that—

(1) moves toward the goal of providing high quality healthcare coverage for every American, so that every American will have healthcare coverage at least as good as the coverage enjoyed by Members of Congress;

(2) reduces healthcare costs for working families and employers;

(3) significantly increases the number of people with high quality healthcare coverage;

(4) builds on the proven success of existing programs, such as the Children's Health Insurance Program, the medicaid program, and the medicare program; and

(5) is offset by increased revenues of not less than $60,000,000,000 derived from closing corporate tax loopholes and closing the tax gap;

the chairman of the Committee on the Budget shall revise committee allocations for the Committee on Health, Education, Labor, and Pensions or the Committee on Finance and other appropriate budgetary aggregates and allocations of new budget authority and outlays by the amount provided by that measure for that purpose, but not to exceed $60,000,000,000 in new budget authority and $60,000,000,000 in outlays for the 5-fiscal year period beginning with fiscal year 2006, regardless of whether the committee is within its 302(a) allocations.

SA 233. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $22,000,000.

On page 3, line 11, increase the amount by $532,000,000.

On page 3, line 12, increase the amount by $148,000,000.

On page 3, line 13, increase the amount by $38,000,000.

On page 3, line 19, increase the amount by $22,000,000.

On page 3, line 20, increase the amount by $532,000,000.

On page 3, line 21, increase the amount by $148,000,000.

On page 4, line 1, increase the amount by $38,000,000.

On page 4, line 7, increase the amount by $370,000,000.

On page 4, line 16, increase the amount by $11,000,000.

On page 4, line 17, increase the amount by $266,000,000.

On page 4, line 18, increase the amount by $74,000,000.

On page 4, line 19, increase the amount by $19,000,000.

On page 4, line 24, increase the amount by $11,000,000.

On page 4, line 25, increase the amount by $266,000,000.

On page 5, line 1, increase the amount by $74,000,000.

On page 5, line 2, increase the amount by $19,000,000.

On page 5, line 7, decrease the amount by $11,000,000.

On page 5, line 8, decrease the amount by $277,000,000.

On page 5, line 9, decrease the amount by $351,000,000.

On page 5, line 10, decrease the amount by $370,000,000.

On page 5, line 11, decrease the amount by $370,000,000.

On page 5, line 15, decrease the amount by $11,000,000.

On page 5, line 16, decrease the amount by $277,000,000.

On page 5, line 17, decrease the amount by $351,000,000.

On page 5, line 18, decrease the amount by $370,000,000.

On page 5, line 19, decrease the amount by $370,000,000.

On page 17, line 16, increase the amount by $370,000,000.

On page 17, line 17, increase the amount by $11,000,000.

On page 17, line 21, increase the amount by $266,000,000.

On page 17, line 25, increase the amount by $74,000,000.

On page 18, line 4, increase the amount by $19,000,000.

On page 30, line 16, decrease the amount by $22,000,000.

On page 30, line 17, decrease the amount by $740,000,000.

On page 48, line 6, increase the amount by $370,000,000.

On page 48, line 7, increase the amount by $11,000,000.

SA 234. Mr. BAUCUS (for himself, Mr. CONRAD, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 28, strike lines 14 through 20.

SA 235. Mr. COLEMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the end of title V. insert the following,

SEC. . SENSE OF THE SENATE IN SUPPORT OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

It is the sense of the Senate that the Community Development Block Grant (CDBG) Program and related programs, including Community Services Block Grant Program, Brownfield Redevelopment, Empowerment Zones, Rural Community Advancement Program, EDA, Native American CDBG, Native Hawaiian CDBG, and Rural Housing and Economic Development by fully funded.

SA 236. Mr. DURBIN (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. POINT OF ORDER REQUIRING THAT THE AMT BE DEALT WITH BEFORE OTHER TAX CUTS FOR THE WEALTHY.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider a bill, amendment, motion, joint resolution, or conference report that would cut taxes for taxpayers with annual adjusted gross incomes of greater than $285,000 unless that measure or a previously enacted measure permanently reduces the number of taxpayers and families with annual adjusted gross incomes of less than $150,000 that will be subject to the alternative minimum tax over the next decade.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 237. Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3 line 10, increase the amount by $11,000,000.

On page 3 line 11, increase the amount by $15,000,000.

On page 3 line 12, increase the amount by $10,000,000.

On page 3 line 13, increase the amount by $8,000,000.

On page 3 line 14, increase the amount by $6,000,000.

On page 3 line 19, increase the amount by $11,000,000.

On page 3 line 20, increase the amount by $15,000,000.

On page 3 line 21, increase the amount by $10,000,000.

On page 4 line 1, increase the amount by $8,000,000.

On page 4 line 2, increase the amount by $6,000,000.

On page 4 line 7, increase the amount by $25,000,000.

On page 4 line 16, increase the amount by $6,000,000.

On page 4 line 17, increase the amount by $8,000,000.

On page 4 line 18, increase the amount by $5,000,000.

On page 4 line 19, increase the amount by $4,000,000.

On page 4 line 20, increase the amount by $3,000,000.

On page 4 line 24, increase the amount by $6,000,000.

On page 4 line 25, increase the amount by $8,000,000.

On page 5 line 1, increase the amount by $5,000,000.

On page 5 line 2, increase the amount by $4,000,000.

On page 5 line 3, increase the amount by $3,000,000.

On page 5 line 7, decrease the amount by $5,000,000.

On page 5 line 8, decrease the amount by $12,000,000.

On page 5 line 9, decrease the amount by $17,000,000.

On page 5 line 10, decrease the amount by $21,000,000.

On page 5 line 11, decrease the amount by $24,000,000.

On page 5 line 15, decrease the amount by $5,000,000.

On page 5 line 16, decrease the amount by $12,000,000.

On page 5 line 17, decrease the amount by $17,000,000.

On page 5 line 18, decrease the amount by $21,000,000.

On page 5 line 19, decrease the amount by $24,000,000.

On page 23 line 16, increase the amount by $25,000,000.

On page 23 line 17, increase the amount by $6,000,000.

On page 23 line 21, increase the amount by $8,000,000.

On page 23 line 25, increase the amount by $5,000,000.

On page 24 line 4, increase the amount by $4,000,000.

On page 24 line 8, increase the amount by $3,000,000.

On page 30 line 16, decrease the amount by $11,000,000.

On page 30 line 17, decrease the amount by $50,000,000.

On page 48 line 6, increase the amount by $25,000,000.

On page 48 line 7, increase the amount by $6,000,000.

SEC. . FINDINGS.

FINDING.—The Congress finds that—

(1) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991 [Pub. L. 102–199], during its 99-year history as a national organization, has proven itself as a positive force in the communities it serves;

(2) not only are the Boys and Girls Clubs reaching America's most distressed communities, they are also bringing to those youths opportunities they cannot get elsewhere.

(3) the Boys and Girls Clubs of America is a national leader in providing opportunities for personal growth and development, which help children to become productive, law abiding teenagers and contributing adults;

(4) there are 3,500 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, as well as American youths living on United States military bases around the world, serving more than 4,000,000 youths nationwide;

(5) the Boys and Girls Clubs of America are growing at a rate of 1 new club every business day and have been doing so for the last 8 years;

(6) the Boys and Girls Clubs have endeavored to increase their presence in rural states and isolated areas where youths, often facing the unique challenges of poverty and geography, have few options after the school day ends, and have enabled those youths to participate in educational, safe and enriching activities;

(7) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(8) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(9) Boys and Girls Clubs are located in 450 public housing sites across the Nation;

(10) there will exist by 2006 there approximately 200 Clubs located on Native American Lands;

(11) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(12) these results have been achieved in the face of national trends in which more than 7.5 million individuals aged 12 to 17 have reported having used an illicit drug at least once in their lifetime;

(13) these results have been achieved in the face of national trends in which students in grades nine through twelve have indicated that 40.2 percent had used marijuana, 12.1 percent had used inhalants, 11.1 percent had used ecstasy, 8.7 percent had used cocaine, 7.6 percent had used methamphetamine, 6.1 percent had illegally used steroids, 3.3 percent had used heroin, and 3.2 percent had injected an illegal drug one or more times during their lifetime;

(14) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

SEC. . SENSE OF THE SENATE.

SENSE OF THE SENATE.—It is the sense of the Senate that, in recognition of the proven success of the Boys and Girls Clubs of America to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, responsible and caring citizens, the funding levels in this resolution assume that all amounts that have been and will be authorized for the Boys and Girls Clubs of America under the Economic Espionage act of 1996 (42 U.S.C. 13751 note), as amended,

will provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,500 additional local clubs where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas, and to ensure that there are a total of not less than 5,000 Boys and Girls Clubs of America facilities in operation by December 31, 2010, serving not less than 5,000,000 young people.

SA 238. Mr. LEVIN (for himself, Mr. DEWINE, Ms. STABENOW, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3, line 10, increase the amount by $400,000,000.
On page 3, line 11, increase the amount by $102,000,000.
On page 3, line 12, increase the amount by $102,000,000.
On page 3, line 13, increase the amount by $32,000,000.
On page 3, line 14, increase the amount by $10,000,000.
On page 3, line 19, increase the amount by $400,000,000.
On page 3, line 20, increase the amount by $102,000,000.
On page 3, line 21, increase the amount by $102,000,000.
On page 4, line 1, increase the amount by $32,000,000.
On page 4, line 2, increase the amount by $10,000,000.
On page 4, line 7, increase the amount by $146,000,000.
On page 4, line 16, increase the amount by $23,000,000.
On page 4, line 17, increase the amount by $51,000,000.
On page 4, line 18, increase the amount by $51,000,000.
On page 4, line 19, increase the amount by $16,000,000.
On page 4, line 20, increase the amount by $5,000,000.
On page 4, line 24, increase the amount by $377,000,000.
On page 4, line 25, increase the amount by $51,000,000.
On page 5, line 1, increase the amount by $51,000,000.
On page 5, line 2, increase the amount by $16,000,000.
On page 5, line 3, increase the amount by $5,000,000.
On page 5, line 7, decrease the amount by $377,000,000.
On page 5, line 8, decrease the amount by $428,000,000.
On page 5, line 9, decrease the amount by $479,000,000.
On page 5, line 10, decrease the amount by $495,000,000.
On page 5, line 11, decrease the amount by $500,000,000.
On page 5, line 15, decrease the amount by $377,000,000.
On page 5, line 16, decrease the amount by $428,000,000.
On page 5, line 17, decrease the amount by $479,000,000.
On page 5, line 18, decrease the amount by $495,000,000.
On page 5, line 19, decrease the amount by $500,000,000.
On page 14, line 15, increase the amount by $146,000,000.
On page 14, line 16, increase the amount by $23,000,000.
On page 14, line 20, increase the amount by $51,000,000.
On page 14, line 24, increase the amount by $51,000,000.
On page 15, line 3, increase the amount by $16,000,000.
On page 15, line 7, increase the amount by $5,000,000.
On page 30, line 16, decrease the amount by $400,000,000.
On page 30, line 17, decrease the amount by $646,000,000.
On page 48, line 6, increase the amount by $146,000,000.
On page 48, line 7, increase the amount by $23,000,000.

SA 239. Mr. BIDEN (for himself, Mr. DORGAN, Mr. LEAHY, Mr. KENNEDY, Mr. SCHUMER, Mr. KOHL, Mr. SALAZAR, Mrs. CLINTON, Mr. KERRY, Mr. NELSON of Florida, Mr. FEINGOLD, Mr. CARPER, Mr. DURBIN, Mr. SARBANES, Mr. REED, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. PRYOR, Mr. LEVIN, Mr. BYRD, Mr. CORZINE, Ms. MIKULSKI, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3, line 10, increase the amount by $240,000,000.
On page 3, line 11, increase the amount by $560,000,000.
On page 3, line 12, increase the amount by $500,000,000.
On page 3, line 13, increase the amount by $400,000,000.
On page 3, line 14, increase the amount by $300,000,000.
On page 3, line 19, increase the amount by $240,000,000.
On page 3, line 20, increase the amount by $560,000,000.
On page 3, line 21, increase the amount by $500,000,000.
On page 4, line 1, increase the amount by $400,000,000.
On page 4, line 2, increase the amount by $300,000,000.
On page 4, line 7, increase the amount by $1,000,000.000.
On page 4, line 16, increase the amount by $120,000,000.
On page 4, line 17, increase the amount by $280,000,000.
On page 4, line 18, increase the amount by $250,000,000.
On page 4, line 19, increase the amount by $200,000,000.
On page 4, line 20, increase the amount by $150,000,000.
On page 4, line 24, increase the amount by $120,000,000.
On page 4, line 25, increase the amount by $280,000,000.
On page 5, line 1, increase the amount by $250,000,000.
On page 5, line 2, increase the amount by $200,000,000.
On page 5, line 3, increase the amount by $150,000,000.
On page 5, line 7, decrease the amount by $120,000,000.
On page 5, line 8, decrease the amount by $400,000,000.
On page 5, line 9, decrease the amount by $650,000,000.
On page 5, line 10, decrease the amount by $850,000,000.
On page 5, line 11, decrease the amount by $1,000,000,000.
On page 5, line 15, decrease the amount by $120,000,000.
On page 5, line 16, decrease the amount by $400,000,000.
On page 5, line 17, decrease the amount by $650,000,000.
On page 5, line 18, decrease the amount by $850,000,000.
On page 5, line 19, decrease the amount by $1,000,000,000.
On page 23, line 16, increase the amount by $1,000,000,000.
On page 23, line 17, increase the amount by $120,000,000.
On page 23 line 21, increase the amount by $280,000,000.
On page 23 line 25, increase the amount by $250,000,000.
On page 24 line 4, increase the amount by $200,000,000.
On page 24 line 8, increase the amount by $150,000,000.
On page 30 line 16, decrease the amount by $240,000,000.
On page 30 line 17, decrease the amount by $2,000,000,000.
On page 48 line 6, increase the amount by $1,000,000,000.
On page 48 line 7, increase the amount by $120,000,000.
On Page 65, after line 25 insert the following:

FUNDING FOR DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) State and local law enforcement officers provide essential services that preserve and protect our freedom and safety;

(2) with the support of the Community Oriented Policing Services program (referred to in this section as the ''COPS program''), State and local law enforcement officers have succeeded in dramatically reducing violent crime;

(3) on July 15, 2002, the Attorney General stated, ''Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates. COPS provides resources that reflect our national priority of terrorism prevention.'';

(4) on February 26, 2002, the Attorney General stated, ''The COPS program has been a miraculous sort of success. It's one of those things that Congress hopes will happen when it sets up a program.'';

(5) the Federal Bureau of Investigation's Assistant Director for the Office of Law Enforcement Coordination has stated, ''The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners.'';

(6) a 2003 study of the 44 largest metropolitan police departments found that 27 of them have reduced force levels;

(7) shortages of officers and increased homeland security duties has forced many local police agencies to rely on overtime and abandon effective, preventative policing practices. And, as a result police chiefs from around the nation are reporting increased gang activity and other troubling crime indicators;

(8) several studies have concluded that the implementation of community policing as a law enforcement strategy is an important factor in the reduction of crime in our communities;

(9) In addition, experts at the Brookings Institute have concluded that community policing programs are critical to our success in the war against terrorism.

(10) the continuation and full funding of the COPS program through fiscal year 2010 is

supported by several major law enforcement organizations, including—

(A) the International Association of Chiefs of Police;

(B) the International Brotherhood of Police Officers;

(C) the Fraternal Order of Police;

(D) the National Sheriffs' Association;

(E) the National Troopers Coalition;

(F) the Federal Law Enforcement Officers Association;

(G) the National Association of Police Organizations;

(H) the National Organization of Black Law Enforcement Executives;

(I) the Police Executive Research Forum; and

(J) the Major Cities Chiefs;

(11) Congress appropriated $928,912,000 for the COPS program for fiscal year 2003, $756,283,000 for fiscal year 2004, and $499,364,000 for fiscal year 2005, and

(12) the President requested $117,781,000 for the COPS program for fiscal year 2006, $381,583,000 less than the amount appropriated for fiscal year 2004.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that an increase of $1,000,000,000 for fiscal year 2006 for the Department of Justice's community oriented policing program will be provided without reduction and consistent with previous appropriated and authorized levels.

SA 240. Mr. BYRD (for himself and Mr. BAUCUS) proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3, line 10 increase the amount by $1,458,000,000.

On page 3, line 11 increase the amount by $3,536,000,000.

On page 3, line 12 increase the amount by $3,605,000,000.

On page 3, line 13 increase the amount by $2,922,000,000.

On page 3, line 14 increase the amount by $2,316,000,000.

On page 4, line 7 increase the amount by $8,920,000,000.

On page 4, line 8 increase the amount by $8,332,000,000.

On page 4, line 9 increase the amount by $8,332,000,000.

On page 4, line 10 increase the amount by $9,568,000,000.

On page 4, line 16 increase the amount by $1,458,000,000.

On page 4, line 17 increase the amount by $3,536,000,000.

On page 4, line 18 increase the amount by $3,605,000,000.

On page 4, line 19 increase the amount by $2,922,000,000.

On page 4, line 20 increase the amount by $2,316,000,000.

On page 15, line 15 increase the amount by $8,920,000,000.

On page 15, line 16 increase the amount by $1,458,000,000.

On page 15, line 19 increase the amount by $8,332,000,000.

On page 15, line 20 increase the amount by $3,536,000,000.

On page 15, line 23 increase the amount by $8,332,000,000.

On page 15, line 24 increase the amount by $3,605,000,000.

On page 16, line 2 increase the amount by $9,568,000,000.

On page 16, line 3 increase the amount by $2,922,000,000.

On page 16, line 7 increase the amount by $2,316,000,000.

On page 48, line 6 increase the amount by $579,000,000.

On page 48, line 7 decrease the amount by $40,372,000,000.

On page 48, line 8, after ''outlays for the discretionary category'' add the following ''and $34,740,000,000 for the highway category and $7,099,000,000 for the transit category''.

SA 241. Mr. BUNNING proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3, line 9, decrease the amount by $0. .

On page 3, line 10, decrease the amount by $4,800,000,000.

On page 3, line 11, decrease the amount by $12,500,000,000.

On page 3, line 12, decrease the amount by $14,000,000,000.

On page 3, line 13, decrease the amount by $15,600,000,000.

On page 3, line 14, decrease the amount by $17,000,000,000.

On page 3, line 18, decrease the amount by $0.

On page 3, line 19, decrease the amount by $4,800,000,000.

On page 3, line 20, decrease the amount by $12,500,000,000.

On page 3, line 21, decrease the amount by $14,000,000,000.

On page 4, line 1, decrease the amount by $15,600,000,000.

On page 4, line 2, decrease the amount by $17,000,000,000.

On page 4, line 23, decrease the amount by $0.

On page 4, line 24, decrease the amount by $4,800,000,000.

On page 4, line 25, decrease the amount by $12,500,000,000.

On page 5, line 1, decrease the amount by $14,000,000,000.

On page 5, line 2, decrease the amount by $15,600,000,000.

On page 5, line 3, decrease the amount by $17,000,000,000.

On page 5, line 6, increase the amount by $0.

On page 5, line 7, increase the amount by $4,800,000,000.

On page 5, line 8, increase the amount by $17,300,000,000.

On page 5, line 9, increase the amount by $31,300,000,000.

On page 5, line 10, increase the amount by $46,900,000,000.

On page 5, line 11 ,increase the amount by $63,900,000.

On page 5, line 14, increase the amount by $0.

On page 5, line 15, increase the amount by $4,800,000,000.

On page 5, line 16, increase the amount by $17,300,000,000.

On page 5, line 17, increase the amount by $31,300,000,000.

On page 5, line 18, increase the amount by $46,900,000,000.

On page 5, line 19, increase the amount by $63,900,OOO.

On page 30, line 16, increase the amount by $4,800,000,000.

On page 30, line 17, increase the amount by $63,900,000,000.

SA 242. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

''In response to the ongoing drought in certain western states, Congress should allocate $15,000,000 to the Bureau of Reclamation's Drought Emergency Assistance Program from within fiscal year 2006 funds available in the Water and Related Resources account for bureauwide programs of the Bureau of Reclamation, an agency of the Department of the Interior.''

SA 243. Mr. CONRAD proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE ON REDUCING THE TAX ON SOCIAL SECURITY BENEFITS.

It is the sense of the Senate that the tax cuts assumed in this resolution include repeal of the 1993 law that subjects 85% of certain Social Security benefits to the income tax, provided that the revenue loss to the Medicare Hospital Insurance Trust Fund is fully replaced so that seniors' access to health care is not adversely affected. If the inclusion of these proposals would otherwise cause the cost of the tax cuts to exceed the level authorized in the resolution, any excess should be fully offset by closing corporate tax loopholes.

SA 244. Mr. REID (for Mrs. CLINTON (for herself, Mr. REID, Mr. KERRY, Mr. CORZINE, Mrs. MURRAY, Mr. LAUTENBERG, and Mrs. FEINSTEIN)) proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 3, line 10, increase the amount by $72,000,000.

On page 3, line 11, increase the amount by $108,000,000.

On page 3, line 12, increase the amount by $14,000,000.

On page 3, line 13, increase the amount by $4,000,000.

On page 3, line 19, increase the amount by $72,000,000.

On page 3, line 20, increase the amount by $108,000,000.

On page 3, line 21, increase the amount by $14,000,000.

On page 4, line 1, increase the amount by $4,000,000.

On page 4, line 7, increase the amount by $100,000,000.

On page 4, line 16, increase the amount by $36,000,000.

On page 4, line 17, increase the amount by $54,000,000.

On page 4, line 18, increase the amount by $7,000,000.

On page 4, line 19, increase the amount by $2,000,000.

On page 4, line 24, increase the amount by $36,000,000.

On page 4, line 25, increase the amount by $54,000,000.

On page 5, line 1, increase the amount by $7,000,000.

On page 5, line 2, increase the amount by $2,000,000.

On page 5, line 7, decrease the amount by $36,000,000.

On page 5, line 8, decrease the amount by $90,000,000.

On page 5, line 9, decrease the amount by $97,000,000.

On page 5, line 10, decrease the amount by $99,000,000.

On page 5, line 11, decrease the amount by $99,000,000.

On page 5, line 15, decrease the amount by $36,000,000.

On page 5, line 16, decrease the amount by $90,000,000.

On page 5, line 17, decrease the amount by $97,000,000.

On page 5, line 18, decrease the amount by $99,000,000.

On page 5, line 19, decrease the amount by $99,000,000.

On page 18, line 16, increase the amount by $100,000,000.

On page 18, line 17, increase the amount by $36,000,000.

On page 19, line 4, increase the amount by $2,000,000.

On page 30, line 16, decrease the amount by $72,000,000.

On page 30, line 17, decrease the amount by $198,000,000.

On page 48, line 6, increase the amount by $36,000,000.

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING PREVENTIVE HEALTH CARE SERVICES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Although the Centers for Disease Control and Prevention included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(2) Increasing access to family planning services will improve women's health and reduce the rates of unintended pregnancy, abortion, and infection with sexually transmitted infections.

(3) Contraceptive use saves public health dollars. Every dollar spent on providing family planning services saves an estimated $3 in expenditures for pregnancy-related and newborn care for Medicaid alone.

(4) Each year, 3,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(5) In 2002, 34,000,000 women—half of all women of reproductive age were in need of contraceptive services and supplies to help prevent unintended pregnancy, and half of those were in need of public support for such care.

(6) The United States also has the highest rate of infection with sexually transmitted infections of any industrialized country. In 2003 there were approximately 19,000,000 new cases of sexually transmitted infections. According to the Centers for Disease Control and Prevention (November 2004), these sexually transmitted infections impose a tremendous economic burden with direct medical costs as high as $15,500,000,000 per year.

(7) The child born from an unintended pregnancy is at greater risk of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(8) Each year, services under title X of the Public Health Service Act enable Americans to prevent approximately 1,000,000 unintended pregnancies, and one in three women of reproductive age who obtains testing or treatment for sexually transmitted infections does so at a title X-funded clinic. In 2003, title X-funded clinics provided 2,800,000 Pap tests, 5,100,000 sexually transmitted infection tests, and 526,000 HIV tests.

(9) The increasing number of uninsured individuals, stagnant funding, health care inflation, new and expensive contraceptive technologies, and improved but expensive screening and treatment for cervical cancer and sexually transmitted infections, have diminished the ability of clinics funded under title X of the Public Health Service Act to adequately serve all those in need. Taking medical inflation into account, funding for the program under such title X declined by 59 percent between 1980 and 2004.

(10) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. Half of the 45,000,000 women of reproductive age currently live in the 29 States without contraceptive coverage policies. These women may still find the most effective forms of contraceptives beyond their financial reach due to a lack of coverage.

(11) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(12) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. It is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion. New research confirms that easier access to emergency contraceptives does not increase sexual risk-taking or sexually transmitted infections.

(13) In 2000, 51,000 abortions were prevented by the use of emergency contraception. Increased use of emergency contraception accounted for up to 43 percent of the total decline in abortions between 1994 and 2000.

(14) Thirteen percent of all teens give birth before age 20. Eighty-eight percent of births to teens age 17 or younger were unintended. Twenty-four percent of Hispanic females gave birth before the age of 20. (Centers for Disease Control and Prevention, December 2004).

(15) Children born to teen moms begin life with the odds against them. They are less likely to be ready for kindergarten, more likely to be of low-birth weight, 50 percent more likely to repeat a grade, more likely to live in poverty, and significantly more likely to be victims of abuse and neglect.

(16) Research shows that a range of initiatives, including sex education, youth development and service learning programs, can encourage teens to behave responsibly by delaying sexual activity and pregnancy. Federal tax dollars are best invested in programs with research-based evidence of success.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that this resolution assumes that—

(1) $100,000,000 of the amount provided for under function category 550 (health) for fiscal year 2006 may be used for any or all of the following—

(A) to fund increases in amounts appropriated to carry out title X of the Public Health Service Act (42 U.S.C. 300 et seq.) above amounts appropriated for fiscal year 2005;

(B) to fund legislation that would require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans;

(C) to fund legislation that would create a public education program administered through the Centers for Disease Control and Prevention concerning the use, safety, efficacy, and availability of emergency contraception that is—

(i) approved by the Food and Drug administration to prevent pregnancy; and

(ii) used post-coitally; or

(D) to fund legislation that would permit the Secretary of Health and Human Services to award, on a competitive basis, grants to public and private entities to establish or expand teenage pregnancy prevention programs or to disseminate information to educators and parents about the most effective strategies for preventing teen pregnancy (funds made available under the authority of this subparagraph are not intended for use by abstinence-only education programs);

(2) the prevention programs described in paragraph (1) are cost effective and will achieve savings by—

(A) reducing the number of unintended pregnancies;

(B) reducing the rate of sexually transmitted infections;

(C) reducing the costs to the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(D) providing for the early detection of HIV and early detection of breast and cervical cancer; and

(3) the increase in funding described in paragraph (1) is offset by an increase in revenues of not to exceed $200,000,000 to be derived from closing corporate tax loopholes, of which the remaining $100,000,000 (after amounts are expended pursuant to this section) should be used for deficit reduction.

SA 245. Mr. REED (for himself, Mr. KENNEDY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $90,000,000.

On page 3, line 11, increase the amount by $1,920,000,000.

On page 3, line 12, increase the amount by $780,000,000.

On page 3, line 13, increase the amount by $210,000,000.

On page 3, line 19, increase the amount by $90,000,000.

On page 3, line 20, increase the amount by $1,920,000,000.

On page 3, line 21, increase the amount by $780,000,000.

On page 4, line 1, increase the amount by $210,000,000.

On page 4, line 7, increase the amount by $1,500,000,000.

On page 4, line 16, increase the amount by $45,000,000.

On page 4, line 17, increase the amount by $960,000,000.

On page 4, line 18, increase the amount by $390,000,000.

On page 4, line 19, increase the amount by $105,000,000.

On page 4, line 24, increase the amount by $45,000,000.

On page 4, line 25, increase the amount by $960,000,000.

On page 5, line 1, increase the amount by $390,000,000.

On page 5, line 2, increase the amount by $105,000,000.
On page 5, line 7, decrease the amount by $45,000,000.
On page 5, line 8, decrease the amount by $1,005,000,000.
On page 5, line 9, decrease the amount by $1,395,000,000.
On page 5, line 10, decrease the amount by $1,500,000,000.
On page 5, line 11, decrease the amount by $1,500,000,000.
On page 5, line 15, decrease the amount by $45,000,000.
On page 5, line 16, decrease the amount by $1,005,000,000.
On page 5, line 17, decrease the amount by $1,395,000,000.
On page 5, line 18, decrease the amount by $1,500,000,000.
On page 5, line 19, decrease the amount by $1,500,000,000.
On page 17, line 16, increase the amount by $1,500,000,000.
On page 17, line 17, increase the amount by $45,000,000.
On page 17, line 21, increase the amount by $960,000,000.
On page 17, line 25, increase the amount by $390,000,000.
On page 18, line 4, increase the amount by $105,000,000.
On page 30, line 16, decrease the amount by $90,000,000.
On page 30, line 17, decrease the amount by $3,000,000,000.
On page 48, line 6, increase the amount by $1,500,000,000.
On page 48, line 7, increase the amount by $45,000,000.

SA 246. Mr. REED (for himself, Mr. KENNEDY, Mr. FEINGOLD, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $710,000,000.
On page 3, line 11, increase the amount by $2,188,000,000.
On page 3, line 12, increase the amount by $60,000,000.
On page 3, line 19, increase the amount by $710,000,000.
On page 3, line 20, increase the amount by $2,188,000,000.
On page 3, line 21, increase the amount by $60,000,000.
On page 4, line 7, increase the amount by $1,479,000,000.
On page 4, line 16, increase the amount by $355,000,000.
On page 4, line 17, increase the amount by $1,094,000,000.
On page 4, line 18, increase the amount by $30,000,000.
On page 4, line 24, increase the amount by $355,000,000.
On page 4, line 25, increase the amount by $1,094,000,000.
On page 5, line 1, increase the amount by $30,000,000.
On page 5, line 7, decrease the amount by $355,000,000.
On page 5, line 8, decrease the amount by $1,449,000,000.
On page 5, line 9, decrease the amount by $1,479,000,000.
On page 5, line 10, decrease the amount by $1,479,000,000.
On page 5, line 11, decrease the amount by $1,479,000,000.
On page 5, line 15, decrease the amount by $355,000,000.
On page 5, line 16, decrease the amount by $1,449,000,000.
On page 5, line 17, decrease the amount by $1,479,000,000.
On page 5, line 18, decrease the amount by $1,479,000,000.
On page 5, line 19, decrease the amount by $1,479,000,000.
On page 17, line 16, increase the amount by $1,479,000,000.
On page 17, line 17, increase the amount by $355,000,000.
On page 17, line 21, increase the amount by $1,094,000,000.
On page 17, line 25, increase the amount by $30,000,000.
On page 30, line 16, decrease the amount by $710,000,000.
On page 30, line 17, decrease the amount by $2,958,000,000.
On page 48, line 6, increase the amount by $1,479,000,000.
On page 48, line 7, increase the amount by $355,000,000.

SA 247. Mr. REED (for himself, Mr. SARBANES, Mr. LEAHY, Mr. SCHUMER, Mr. KENNEDY, Ms. STABENOW, Mrs. CLINTON, Mr. DURBIN, Mrs. MURRAY, Mr. CORZINE, Mr. DODD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $3,200,000,000.
On page 3, line 19, increase the amount by $3,200,000,000.
On page 4, line 7, increase the amount by $3,200,000,000.
On page 4, line 16, increase the amount by $3,200,000,000.
On page 20, line 16, increase the amount by $3,200,000,000.
On page 20, line 17, increase the amount by $3,200,000,000.
On page 30, line 16, decrease the amount by $3,200,000,000.
On page 30, line 17, decrease the amount by $3,200,000,000.
On page 48, line 6, increase the amount by $3,200,000,000.
On page 48, line 7, increase the amount by $3,200,000,000.

SA 248. Mr. ENSIGN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 9, line 15, decrease the amount by $1,000,000,000.
On page 9, line 16, decrease the amount by $421,000,000.
On page 9, line 20, decrease the amount by $349,000,000.
On page 9, line 24, decrease the amount by $75,000,000.
On page 10, line 3, decrease the amount by $5,000,000.
On page 17, line 16, increase the amount by $850,000,000.
On page 17, line 17, increase the amount by $421,000,000.
On page 17, line 22, increase the amount by $349,000,000.
On page 17, line 25, increase the amount by $75,000,000.
On page 18, line 4, increase the amount by $5,000,000.
On page 24, line 16, increase the amount by $150,000,000.
On page 24, line 17, increase the amount by $150,000,000.

SA 249. Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $113,000,000.
On page 3, line 11, increase the amount by $26,000,000.
On page 3, line 19, increase the amount by $113,000,000.
On page 3, line 20, increase the amount by $26,000,000.
On page 4, line 7, increase the amount by $139,000,000.
On page 4, line 16, increase the amount by $113,000,000.
On page 4, line 17, increase the amount by $26,000,000.
On page 14, line 15, increase the amount by $139,000,000.
On page 14, line 16, increase the amount by $113,000,000.
On page 14, line 20, increase the amount by $26,000,000.
On page 30, line 16, decrease the amount by $113,000,000.
On page 30, line 17, decrease the amount by $139,000,000.
On page 48, line 6, increase the amount by $139,000,000.
On page 48, line 7, increase the amount by $113,000,000.

SA 250. Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $1,100,000,000.
On page 3, line 11, increase the amount by $1,700,000,000.
On page 3, line 12, increase the amount by $1,700,000,000.
On page 3, line 13, increase the amount by $1,700,000,000.
On page 3, line 14, increase the amount by $1,800,000,000.
On page 3, line 19, increase the amount by $1,100,000,000.
On page 3, line 20, increase the amount by $1,700,000,000.
On page 3, line 21, increase the amount by $1,700,000,000.
On page 4, line 1, increase the amount by $1,700,000,000.
On page 4, line 2, increase the amount by $1,800,000,000.
On page 4, line 24, increase the amount by $1,100,000,000.

On page 4, line 25, increase the amount by $1,700,000,000.
On page 5, line 1, increase the amount by $1,700,000,000.
On page 5, line 2, increase the amount by $1,700,000,000.
On page 5, line 3, increase the amount by $1,800,000,000.
On page 5, line 7, decrease the amount by $1,100,000,000.
On page 5, line 8, decrease the amount by $2,800,000,000.
On page 5, line 9, decrease the amount by $4,500,000,000.
On page 5, line 10, decrease the amount by $6,200,000,000.
On page 5, line 11, decrease the amount by $8,000,000,000.
On page 5, line 15, decrease the amount by $1,100,000,000.
On page 5, line 16, decrease the amount by $2,800,000,000.
On page 5, line 17, decrease the amount by $4,500,000,000.
On page 5, line 18, decrease the amount by $6,200,000,000.
On page 5, line 19, decrease the amount by $8,000,000,000.
On page 30, line 16, decrease the amount by $1,100,000,000.
On page 30, line 17, decrease the amount by $8,000,000,000.

SA 251. Mr. CORZINE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. ___. SENSE OF THE SENATE ON SUPPORT FOR THE INVESTOR PROTECTION MISSION OF THE SECURITIES AND EXCHANGE COMMISSION.

(a) FINDINGS.—The Senate finds the following:

(1) Investor protection is essential to the mission of the Securities and Exchange Commission (hereafter referred to as the ''Commission''), which is to promote fair, orderly, and competitive financial markets.

(2) The integrity of America's securities markets depends on accurate financial disclosure and transparency.

(3) Public confidence in our securities markets is enhanced by the continued independence of the Commission.

(4) Cuts to the Securities and Exchange Commission budget that would force the agency to delay hiring or the implementation of technology projects could undermine the ability of the Commission to protect investors.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that there will be no cuts to the Securities and Exchange Commission budget that would diminish the ability of the Commission to protect investors.

SA 252. Mr. PRYOR (for himslf and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

At the end of title III, insert:

SEC. ____. RESERVE FUND FOR EXTENSION OF TREATMENT OF COMBAT PAY FOR EARNED INCOME AND CHILD TAX CREDITS.

If the Committee on Finance reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that makes permanent the taxpayer election to treat combat pay otherwise excluded from gross income under section 112 of the Internal Revenue Code as earned income for purposes of the earned income credit and makes permanent the treatment of such combat pay as earned income for purposes of the child tax credit, the Chairman of the Committee on the Budget may revise the allocations of budget authority and outlays, the revenue aggregates, and other appropriate measures, provided that such legislation would not increase the deficit for the period of fiscal year 2006 or the total of fiscal years 2006 though 2010.

SA 253. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. BINGAMAN, Mrs. MURRAY, Mr. TALENT, Mr. SMITH, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 65, after line 25, insert the following:

SEC. ___. SENSE OF THE SENATE SUPPORTING FUNDING FOR HIDTAS.

(a) FINDINGS.—The Senate finds the following:

(1) The High Intensity Drug Trafficking Area (HIDTA) program encompasses 28 strategic regions, 355 task forces, 53 intelligence centers, 4,428 Federal personnel, and 8,459 State and local personnel.

(2) The purposes of the HIDTA program are to reduce drug trafficking and drug production in designated areas in the United States by—

(A) facilitating cooperation among Federal, State, and local law enforcement agencies to share information and implement coordinated enforcement activities;

(B) enhancing intelligence sharing among Federal, State, and local law enforcement agencies;

(C) providing reliable intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of drugs in HIDTA designated areas.

(3) In 2004, HIDTA efforts resulted in disrupting or dismantling over 509 international, 711 multi-State, and 1,110 local drug trafficking organizations.

(4) In 2004, HIDTA instructors trained 21,893 students in cutting-edge practices to limit drug trafficking and manufacturing within their areas.

(5) The HIDTAs are the only drug enforcement coalitions that include equal partnership between Federal, State, and local law enforcement leaders executing a regional approach to achieving regional goals while pursuing a national mission.

(6) The proposed budget of $100,000,000 for the HIDTA program is inadequate to effectively maintain all of the operations currently being supported.

(7) The proposed budget of $100,000,000 for the HIDTA program would undermine the viability of this program and the efforts of law enforcement around the country to combat illegal drugs, particularly methamphetamine.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the spending level of budget function 750 (Administration of Justice) is assumed to include $227,000,000 for the High Intensity Drug Trafficking Areas; and

(2) unless new legislation is enacted, it is assumed that the HIDTA program will remain with the Office of National Drug Control Policy, where Congress last authorized it to reside.

SA 254. Mr. SALAZAR (for himself, Mr. ENSIGN, Mr. ALLARD, Mr. BINGAMAN, Mr. CRAIG, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 4, line 7, decrease the amount by $5,000,000.
On page 4, line 16, increase the amount by $42,000,000.
On page 4, line 17, decrease the amount by $21,000,000.
On page 4, line 18, decrease the amount by $12,000,000.
On page 4, line 19, decrease the amount by $6,000,000.
On page 4, line 24, decrease the amount by $42,000,000.
On page 4, line 25, increase the amount by $21,000,000.
On page 5, line 1, increase the amount by $12,000,000.
On page 5, line 2, increase the amount by $6,000,000.
On page 5, line 3, increase the amount by $3,000,000.
On page 5, line 7, increase the amount by $42,000,000.
On page 5, line 8, increase the amount by $21,000,000.
On page 5, line 9, increase the amount by $9,000,000.
On page 5, line 10, decrease the amount by $18,000,000.
On page 5, line 15, increase the amount by $42,000,000.
On page 5, line 16, increase the amount by $21,000,000.
On page 5, line 17, increase the amount by $9,000,000.
On page 5, line 18, decrease the amount by $18,000,000.
On page 9, line 15, decrease the amount by $52,000,000.
On page 9, line 16, decrease the amount by $5,000,000.
On page 9, line 20, decrease the amount by $21,000,000.
On page 9, line 24, decrease the amount by $12,000,000.
On page 10, line 3, decrease the amount by $6,000,000.
On page 10, line 7, decrease the amount by $3,000,000.
On page 24, line 16, increase the amount by $47,000,000.
On page 24, line 17, increase the amount by $47,000,000.
On page 48, line 7, increase the amount by $42,000,000.

SA 255. Mr. SALAZAR (for himself, Ms. COLLINS, Mr. DORGAN, Mr. OBAMA, Mr. CONRAD. Mrs. MURRAY, Mr. JEFFORDS, Ms. CANTWELL, Mr. LEVIN, Mr. KENNEDY, and Ms. SNOWE) submitted an

amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18. setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $13,000,000.
On page 3, line 11, increase the amount by $81,000,000.
On page 3, line 12, increase the amount by $98,000,000.
On page 3, line 13, increase the amount by $72,000,000.
On page 3, line 14, increase the amount by $28,000,000.
On page 3, line 19, increase the amount by $13,000,000.
On page 3, line 20, increase the amount by $81,000,000.
On page 3, line 21, increase the amount by $98,000,000.
On page 4, line 1, increase the amount by $72,000,000.
On page 4, line 2, increase the amount by $28,000,000.
On page 4, line 7, increase the amount by $150,000,000.
On page 4, line 16, increase the amount by $7,000,000.
On page 4, line 17, increase the amount by $40,000,000.
On page 4, line 18, increase the amount by $49,000,000.
On page 4, line 19, increase the amount by $36,000,000.
On page 4, line 20, increase the amount by $14,000,000.
On page 4, line 24, increase the amount by $6,000,000.
On page 4, line 25, increase the amount by $41,000,000.
On page 5, line 1, increase the amount by $49,000,000.
On page 5, line 2, increase the amount by $36,000,000.
On page 5, line 3, increase the amount by $14,000,000.
On page 5, line 7, decrease the amount by $6,000,000.
On page 5, line 8, decrease the amount by $47,000,000.
On page 5, line 9, decrease the amount by $96,000,000.
On page 5, line 10, decrease the amount by $132,000,000.
On page 5, line 11, decrease the amount by $146,000,000.
On page 5, line 15, decrease the amount by $6,000,000.
On page 5, line 16, decrease the amount by $47,000,000.
On page 5, line 17, decrease the amount by $96,000,000.
On page 5, line 18, decrease the amount by $132,000,000.
On page 5, line 19, decrease the amount by $146,000,000.
On page 22, line 16, increase the amount by $150,000,000.
On page 22, line 17, increase the amount by $7,000,000.
On page 22, line 21, increase the amount by $40,000,000.
On page 22, line 25, increase the amount by $49,000,000.
On page 23, line 4, increase the amount by $36,000,000.
On page 23, line 8, increase the amount by $14,000,000.
On page 30, line 16, decrease the amount by $13,000,000.
On page 30, line 17, decrease the amount by $292,000,000.
On page 48, line 6, increase the amount by $150,000,000.
On page 48, line 7, increase the amount by $7,000,000.

SA 256. Mr. CHAFEE (for himself, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, Mr. LEVIN, Mr. KENNEDY, Ms. SNOWE, Mr. DEWINE, Mr. LIEBERMAN, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE REGARDING WATER INFRASTRUCTURE.

(a) FINDINGS.—The Senate finds that—

(1) payments to States from the Federal Water Pollution Control State Revolving Fund under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) are essential to protect public health, fisheries, wildlife, and watersheds, and to ensure opportunities for public recreation and economic development;

(2) despite important progress in protecting and enhancing water quality since the enactment of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) in 1972, serious water pollution problems persist throughout the United States;

(3) the report of the Environmental Protection Agency dated September 30, 2002, and relating to clean water and drinking water infrastructure gap analysis found that there will be a $535,000,000,000 gap between current spending and projected needs for water and wastewater infrastructure over the next 20 years if additional investments are not made;

(4) in November 2002, the Congressional Budget Office estimated the annual investment in clean water infrastructure needs to be at least $13,000,000,000 for capital construction and $20,300,000,000 for operation and maintenance; and

(5) the Federal Government is a vital partner with State and local governments and must continue to share in the burden of maintaining and improving the water infrastructure of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that payments to States from the Federal Water Pollution Control State Revolving Fund under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) should be increased to $1,350,000,000 for fiscal year 2006 to assist States and local communities in meeting water quality standards and restoring the health and safety of the water of the United States.

SA 257. Mrs. BOXER submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

At the appropriate place, insert the following:

SEC. ___. POINT OF ORDER.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any appropriations bill if it allows funds to be provided for prepackaged news stories that do not have a disclaimer that continuously runs through the presentation which says, ''Paid for by the United States Government.''.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of 3/5 of the Members, duly chosen and sworn. An affirmative vote of 3/5 of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 258. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 40, after line 8, insert the following:

SEC. ___. RESERVE FUND FOR DEFICIT REDUCTION AND TO STRENGTHEN THE PART A TRUST FUND.

The Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, functional totals, and other appropriate levels and limits in this resolution upon enactment of legislation that achieves savings under the medicare program under title XVIII of the Social Security Act by reducing overpayments to Medicare Advantage plans (such as legislation that requires the full amount of savings from the implementation of risk adjusted payments to Medicare Advantage plans to accrue to the medicare program, that eliminates the plan stabilization fund under section 1858(e) of such Act, and that adjusts the MA area-specific non-drug monthly benchmark amount under part C of such title to exclude payments for the indirect costs of medical education under section 1886(d)(5)(B) of such Act), by the amount of savings in that legislation, to ensure that those savings are reserved for deficit reduction and to strengthen the Federal Hospital Insurance Trust Fund.

SA 259. Mrs. BOXER proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

On page 65, after line 25, insert the following:

SEC. 510. SENSE OF THE SENATE REGARDING THE NEED FOR A COMPREHENSIVE, COORDINATED, AND INTEGRATED NATIONAL OCEAN POLICY.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States Commission on Ocean Policy and the Pew Ocean Commission have each completed and published independent findings on the state of the United States oceans, coasts, and Great Lakes.

(2) The findings made by the Commissions include the following:

(A) The United States oceans, coasts, and Great Lakes are a vital component of the economy of the United States.

(B) The resources and ecosystems associated with the United States oceans, coasts, and Great Lakes are in trouble.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and the Congress should—

(1) expeditiously consider the recommendations of the United States Commission on Ocean Policy during the 109th Congress; and

(2) enact a comprehensive, coordinated, and integrated national ocean policy that will ensure the long-term economic and ecological health of the United States oceans, coasts, and Great Lakes.

SA 260. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

SEC. . SENSE OF THE SENATE REGARDING DROUGHT ASSISTANCE PROGRAM.

It is the sense of the Senate that, in response to the ongoing drought in certain western states, Congress should allocate $15,000,000 to the Bureau of Reclamation's Drought Emergency Assistance Program from within fiscal year 2006 funds available in the Water and Related Resources account for bureauwide programs of the Bureau of Reclamation, an agency of the Department of the Interior.

SA 261. Mr. CHAFEE (for himself, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, Mr. LEVIN, and Mr. KENNEDY) proposed an amendment to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE REGARDING WATER INFRASTRUCTURE.

(a) FINDINGS.—The Senate finds that—

(1) payments to States from the Federal Water Pollution Control State Revolving Fund under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) are essential to protect public health, fisheries, wildlife, and watersheds, and to ensure opportunities for public recreation and economic development;

(2) despite important progress in protecting and enhancing water quality since the enactment of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) in 1972, serious water pollution problems persist throughout the United States;

(3) the report of the Environmental Protection Agency dated September 30, 2002, and relating to clean water and drinking water infrastructure gap analysis found that there will be a $535,000,000,000 gap between current spending and projected needs for water and wastewater infrastructure over the next 20 years if additional investments are not made;

(4) in November 2002, the Congressional Budget Office estimated the annual investment in clean water infrastructure needs to be at least $13,000,000,000 for capital construction and $20,300,000,000 for operation and maintenance; and

(5) the Federal Government is a vital partner with State and local governments and must continue to share in the burden of maintaining and improving the water infrastructure of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that payments to States from the Federal Water Pollution Control State Revolving Fund under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) should be increased to $1,350,000,000 for fiscal year 2006 to assist States and local communities in meeting water quality standards and restoring the health and safety of the water of the United States.

SA 262. Mr. GREGG (for Mr. GRASSLEY) submitted an amendment intended to be proposed by Mr. GREGG to the concurrent resolution S. Con. Res. 18, setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; as follows:

At the end of title V, insert the following:

SEC. ___. SENSE OF THE SENATE WITH RESPECT TO PENSION REFORM.

(a) FINDINGS.—The Senate finds the following:

(1) The rules for calculating the funded status of pension plans and for determining calculations, premiums, and other issues should ensure strong funding of such plans in both good and bad economic times.

(2) The expiration of the interest rate provisions of the Pension Funding Equity Act of 2004 at the end of 2005 and the need to address the deficit at the Pension Benefit Guaranty Corporation (referred to in this section as the ''PBGC'') demand enactment of pension legislation this year.

(3) Thirty-four million active and retired workers are relying on their defined benefit plans to provide retirement security, and a failure by Congress to reform the defined benefit system will place at risk the pensions of millions of Americans.

(4) Stabilization of the defined benefit pension system and the PBGC may require significant and structural changes in the Employee Retirement and Income Security Act of 1974 and the Internal Revenue Code of 1986, which must be undertaken in a single comprehensive set of reforms.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees shall insist on the Senate position expressed in this resolution with respect to PBGC premiums.

SA 283. Mr. GRASSLEY (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 18, setting for the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; which was ordered to lie on the table; as follows:

Sec. . SPECIAL RULE WITH RESPECT TO PENSION REFORM

In the Senate, if the Committee on Finance or the Committee on Health, Education, Labor, and Pensions reports a bill or joint resolution that includes pension reform and that measure achieves not less than $476 million in net outlay reductions in fiscal year 2006 and $3.306 billion in net outlay reductions for the period of fiscal years 2006 through 2010, and provided both committees have met their respective spending reconciliation instructions pursuant to Sec. 201(a), the Chairman of the Committee on the Budget may file with the Senate appropriately revised allocations, function levels and aggregates as long as the cumulative value of the adjustments do not increase overall Federal Government outlays. Function levels or aggregate spending levels for fiscal year 2006 or for the period of fiscal years 2006 through 2010.

Such revised allocations, function levels and aggregates shall be considered as allocations, function levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget.

SA 264. Mr. FRIST proposed an amendmend to the resolution S. Res. 43, designating the first day of April 2005 as ''National Asbestos Awareness Day''; as follows:

Strike the preamble and insert the following:

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas these fibers can cause mesothelioma, asbestosis and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognosis;

Whereas the United States has substantially reduced its consumption of asbestos yet continues to consume almost 7,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas asbestos exposures continue and safety and prevention will reduce and has reduced significantly asbestos exposure and asbestos-related diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of Americans die from asbestos related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975; and

Whereas the establishment of a ''National Asbestos Awareness Day'' 'would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

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NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, April 6, at 10 a.m. in 366 Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of David Garman to be Under Secretary of Energy.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224–1327.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 17, 2005, at 9:30 a.m., in open and closed session to receive testimony on current and future worldwide threats to the national security of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 17, 2005, at 11 a.m. to mark up an original bill entitled the Federal Public Transportation Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Thursday, March 17, 2005, at 2:30 p.m., to consider favorably reporting the nomination of Daniel R. Levinson, to be Inspector General, Department of Health and Human Services, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, March 17, 2005 at 9:30 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 17, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda:

I. Nominations: William G. Myers, III, to be U.S. Circuit Judge for the Ninth Circuit; Terrence W. Boyle, II, to be U.S. Circuit Judge for the Fourth Circuit; Robert J. Conrad, Jr., to be U.S. District Judge for the Western District of North Carolina; James C. Dever, III, to be U.S. District Judge for the Eastern District of North Carolina; Thomas B. Griffith, to be U.S. Circuit Judge for the District of Columbia Circuit; Paul A. Crotty, to be U.S. District Judge for the Southern District of New York; J. Michael Seabright, to be U.S. District Judge for the District of Hawaii.

II. Bills: Asbestos—S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005, Biden, Specter, Feinstein, Kyl; S. 188, State Criminal Alien Assistance Program Reauthorization Act of 2005, Feinstein, Kyl, Schumer, Cornyn, Durbin, Specter; S. 119, Unaccompanied Alien Child Protection Act of 2005, Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter; S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays, Cornyn, Leahy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 17, 2005, for a committee hearing titled ''Back from the Battlefield: Are We Providing the Proper Care for America's Wounded Warriors?''

The hearing will take place in Room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES AND COAST GUARD

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries and Coast Guard be authorized to meet on Thursday, March 17, 2005, at 10 a.m. on Coast Guard Operational Readiness/Mission Balance/FY 2006 Budget Request in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on March 17, 2005, at 3 p.m., in open session to receive testimony on the posture of the U.S. Transportation Command in review of the Defense Authorization Request for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mindy Lanie, a sign language interpreter from congressional support services, be granted the privileges of the floor during consideration of the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Kathleen Strottman be granted the privilege of the floor during consideration of the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR AND DISCHARGE

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 27, 28, 29, 31, 32, 33, 34, 36, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, and 54, and all nominations on the Secretary's desk. Further, that Harold Damelin, PN87, be discharged from the Governmental Affairs Committee, and the Senate also proceed to its consideration.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

David B. Bolton, of the District of Columbia, for the rank of Ambassador during his tenure of service as Deputy Assistant Secretary of State for Oceans and Fisheries. (New Position)

Joseph R. DeTrani, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Six Party Talks. (New Position)

John Thomas Schieffer, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

R. Nicholas Burns, of Massachusetts, to be an Under Secretary of State (Political Affairs).

C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (Near Eastern Affairs).

Christopher R. Hill, of Rhode Island, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (East Asian and Pacific Affairs).

Rudolph E. Boschwitz, of Minnesota, for the rank of Ambassador during his tenure of services as Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

DEPARTMENT OF ENERGY

Jeffrey Clay Sell, of Texas, to be Deputy Secretary of Energy.

NATIONAL SECURITY EDUCATION BOARD

George M. Dennison, of Montana, to be a Member of the National Security Education Board for a term of four years.

James William Carr, of Arkansas, to be a Member of the National Security Education Board for a term of four years.

Kiron Kanina Skinner, of Pennsylvania, to be a Member of the National Security Education Board for a term of four years.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Claude R. Kehler, 6600

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Robert R. Allardice, 0000
Colonel C. D. Alston, 0000
Colonel Michael J. Basla, 0000
Colonel Francis M. Bruno, 0000
Colonel Brooks L. Bash, 0000
Colonel Thomas K. Andersen, 0000
Colonel Herbert J. Carlisle, 0000
Colonel Charles R. Davis, 0000
Colonel Donald Lustig, 0000
Colonel James M. Kowalski, 0000
Colonel Frank J. Kisner, 0000
Colonel Jimmie C. Jackson, Jr., 0000
Colonel Mary K. Hertog, 0000
Colonel Blair E. Hansen, 0000
Colonel Frank Gorenc, 0000
Colonel Gregory A. Feest, 0000
Colonel Daniel R. Dinkins, Jr., 0000
Colonel Robert Yates, 0000
Colonel Janet A. Therianos, 0000
Colonel Mark S. Solo, 0000
Colonel Stephen D. Schmidt, 0000
Colonel Paul G. Schafer, 0000
Colonel Albert F. Riggle, 0000
Colonel Joseph Reynes, Jr., 0000
Colonel Joseph M. Reheiser, 0000
Colonel Robin Rand, 0000
Colonel Ellen M. Pawlikowski, 0000
Colonel Mark H. Owen, 0000
Colonel Joseph F. Mudd, Jr., 0000
Colonel Harold W. Moulton, II5, 0000
Colonel Christopher D. Miller, 0000
Colonel Gary S. Connor, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. James J. Dougherty, III, 0000
Col. Patricia C. Lewis, 0000

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title, 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stanley E. Green, 0000

The following named officer for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Charles K. Ebner, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. James O. Barclay, III, 0000
Col. Arthur M. Bartell, 0000
Col. Donald M. Campbell, Jr., 0000
Col. Dennis E. Rogers, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Byron S. Bagby, 0000
Brigadier General Vincent E. Boles, 0000
Brigadier General Thomas P. Bostick, 0000
Brigadier General Howard B. Bromberg, 0000
Brigadier General Sean J. Byrne, 0000
Brigadier General Charles A. Cartwright, 0000
Brigadier General Thomas R. Csrnko, 0000
Brigadier General John DeFreitas, III, 0000
Brigadier General Robert E. Durbin, 0000
Brigadier General David A. Fastabend, 0000
Brigadier General Charles W. Fletcher, Jr.,
Brigadier General Daniel A. Hahn, 0000
Brigadier General Rhett A. Hernandez, 0000
Brigadier General Mark P. Hertling, 0000
Brigadier General Charles H. Jacoby, Jr., 0000
Brigadier General Jerome Johnson, 0000
Brigadier General Gary M. Jones, 0000
Brigadier General William M. Lenaers, 0000
Brigadier General Douglas E. Lute, 0000
Brigadier General Benjamin R. Mixon, 0000
Brigadier General James R. Myles, 0000
Brigadier General Roger A. Nadeau, 0000
Brigadier General David M. Rodriguez, 0000
Brigadier General Richard J. Rowe, Jr., 0000
Brigadier General Jeffrey J. Schloesser, 0000
Brigadier General Jeffrey A. Sorenson, 0000
Brigadier General Abraham J. Turner, 0000
Brigadier General Robert M. Williams, 0000
Brigadier General Richard P. Zahner, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Donald L. Jacka, Jr., 0000

To be brigadier general

Col. Jerry D. La Cruz, Jr., 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Evan M. Chanik, Jr., 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Barry M. Costello, 0000

AIR FORCE

PN149 AIR FORCE nominations (54) beginning Arlene D. * Adams, and ending Robert G. * Young, which nominations were received by the Senate and appeared in the Congressional Record of February 8, 2005.

PN247 AIR FORCE nominations (54) beginning Erik L. Abrames, and ending Duojia Xu, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN261 AIR FORCE nominations of Steven F. Reck, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN262 AIR FORCE nomination of Mark D. Miller, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN263 AIR FORCE nomination of Nancy B. Grane, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN264 AIR FORCE nomination of Jack M. Davis, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN265 AIR FORCE nominations (2) beginning Ramon Morales, and ending Frank M. Wood, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN266 AIR FORCE nominations (6) beginning Richard E. Ando Jr., and ending Kenneth S. Papier, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN267 AIR FORCE nominations (4) beginning Stephen H. Gregg, and ending Robert L. Shaw, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN268 AIR FORCE nominations (6) beginning John P. Albright, and ending Louis B. Miller, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN269 AIR FORCE nominations (6) beginning Lester H. Bakos, and ending Gregory G. Movesesian, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN270 AIR FORCE nominations (9) beginning Charles M. Bolin, and ending James A. Withers, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN271 AIR FORCE nominations (14) beginning Bruce Steuart Ambrose, and ending Patricia L. Wildermuth, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN272 AIR FORCE nominations (15) beginning Karen A. Baldi, and ending Paul E. Wright, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN273 AIR FORCE nominations (19) beginning Vickie Z. Beckwith, and ending Gayle Seifullin, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN274 AIR FORCE nominations (23) beginning Paul N. Austin, and ending Florence A. Valley, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN275 AIR FORCE nominations (66) beginning Edmond O. Anderson, and ending Scott A. Young, which nominations were received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN276 AIR FORCE nomination of Kenneth M. Francis, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN277 AIR FORCE nomination of Vito Manente, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN278 AIR FORCE nominations of Jeffrey H. Wilson, which was received by the Senate and appeared in the Congressional Record of March 1, 2005.

PN287 AIR FORCE nominations (1425) beginning David C. Abruzzi, and ending Michael J. Zuber, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN288 AIR FORCE nominations (57) beginning Steven G. Allred, and ending John R. Wrockloff, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN290 AIR FORCE nominations (134) beginning Travis R. * Adams, and ending Wendy J. * Wyse, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN291 AIR FORCE nominations (2173) beginning Christopher N. * Aasen, and ending Ronald J. * Zwickel, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

ARMY

PN39 ARMY nominations (54) beginning Peter W Aubrey, and ending Jeffrey K Wilson, which nominations were received by the Senate and appeared in the Congressional Record of January 6, 2005.

PN40 ARMY nominations (28) beginning Michael J Arinello, and ending James E Whaley III, which nominations were received by the Senate and appeared in the Congressional Record of January 6, 2005.

PN41 ARMY nominations (33) beginning Donna A Alberto, and ending Douglas A Wild, which nominations were received by the Senate and appeared in the Congressional Record of January 6, 2005.

P43 ARMY nominations (344) beginning Ronald P Alberto, and ending X2800, which nominations were received by the Senate and appeared in the Congressional Record of January 6, 2005.

PN216 ARMY nomination of Gerald L. Dunlap, which was received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN217 ARMY nomination of Robert D. Saxon, which was received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN218 ARMY nominations (2) beginning Richard R. Guzzetta, and ending Robert J. Johnson, which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN219 ARMY nominations (2) beginning James R. Hajduk, and ending Fritz W. Kirklighter, which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN220 ARMY nominations (2) beginning Brian E. Baca, and ending Anthony E. Baker Sr., which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN248 ARMY nomination of William T. Monacci, which was received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN249 ARMY nominations (2) beginning Brian J. Tenney, and ending Karen T. Welden, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN250 ARMY nominations (5) beginning David J. Bricker, and ending Wayne A. Steltz, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN251 ARMY nominations (35) beginning Larry N Barber, and ending David D Worcester, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN252 ARMY nominations (2) beginning Hays L. Arnold, and ending William C. Otto, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN253 ARMY nomination of John P. Guerreiro, which was received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN254 ARMY nomination of Evelyn I. Rodriguez, which was received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN255 ARMY nomination of Demetres William, which was received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN292 ARMY nominations (13) beginning Kenneth A Beard, and ending Karen E Semeraro, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN294 ARMY nominations (48) beginning Stanley P. Allen, and ending Henry J. Young, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

MARINE CORPS

PN64 MARINE CORPS nominations (127) beginning Robert S Abbott, and ending Ronald M Zich, which nominations were received by the Senate and appeared in the Congressional Record of January 6, 2005.

PN131 MARINE CORPS nominations (577) beginning Carlton W Adams, and ending Wayne R Zuber, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2005.

PN132 MARINE CORPS nominations (99) beginning Keith R Anderson, and ending Gary K Wortham, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2005.

PN174 MARINE CORPS nominations (5) beginning Michael S. Driggers, and ending Robert R. Sommers, which nominations were received by the Senate and appeared in the Congressional Record of February 8, 2005.

NAVY

PN256 NAVY nominations (79) beginning Donald R Bennett, and ending George B Younger, which nominations were received by the Senate and appeared in the Congressional Record of February 28, 2005.

PN257 NAVY nomination of Matthew S. Gilchrist, which was received by the Senate and appeared in the Congressional Record of February 28, 2005.

DEPARTMENT OF THE TREASURY

Harold Damelin, of Virginia, to be Inspector General, Department of the Treasury.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MEASURE READ THE FIRST TIME—H.R. 841

Mr. FRIST. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The legislative clerk read as follows:

A bill (H.R. 841) to require States to hold special elections to fill vacancies in the House of Representatives not later than 49 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances.

Mr. FRIST. I now ask for a second reading and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. The bill will be read the second time on the next legislative day.

APPOINTMENT AUTHORITY

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards conferences, or other interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE LEGISLATIVE AND EXECUTIVE ITEMS ON WEDNESDAY, MARCH 30, 2005

Mr. FRIST. I ask unanimous consent that not withstanding the recess, committees be allowed to file legislative and executive items on Wednesday, March 30, between the hours of 10 a.m. and 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ASBESTOS AWARENESS DAY

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 43, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution designating the first day of April 2005 as ''National Asbestos Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the Frist amendment be agreed to, the preamble, as amended, be agreed to, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 43) was agreed to.

The amendment (No. 264) was agreed to, as follows:

Strike the preamble and insert the following:

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas these fibers can cause mesothelioma, asbestosis and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognosis;

Whereas the United States has substantially reduced its consumption of asbestos yet continues to consume almost 7,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas asbestos exposures continue and safety and prevention will reduce and has reduced significantly asbestos exposure and asbestos-related diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of Americans die from asbestos related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975; and

Whereas the establishment of a ''National Asbestos Awareness Day'' would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 43

Whereas deadly asbestos fibers are invisible and cannot be smelled or tasted;

Whereas when airborne fibers are inhaled or swallowed, the damage is permanent and irreversible;

Whereas these fibers can cause mesothelioma, asbestosis, lung cancer, and pleural diseases;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival rate of those diagnosed with mesothelioma is between 6 and 24 months;

Whereas little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases would give patients increased treatment options and often improve their prognosis;

Whereas asbestos is a toxic and dangerous substance and must be disposed of properly;

Whereas nearly half of the more than 1,000 screened firefighters, police officers, rescue workers, and volunteers who responded to the World Trade Center attacks on September 11, 2001, have new and persistent respiratory problems;

Whereas the industry groups with the highest incidence rates of asbestos-related diseases, based on 2000 to 2002 figures, were shipyard workers, vehicle body builders (including rail vehicles), pipefitters, carpenters and electricians, construction (including insulation work and stripping), extraction, energy and water supply, and manufacturing;

Whereas the United States imports more than 30,000,000 pounds of asbestos used in products throughout the Nation;

Whereas asbestos-related diseases kill 10,000 people in the United States each year, and the numbers are increasing;

Whereas asbestos exposure is responsible for 1 in every 125 deaths of men over the age of 50;

Whereas safety and prevention will reduce asbestos exposure and asbestos-related diseases;

Whereas asbestos has been the largest single cause of occupational cancer;

Whereas asbestos is still a hazard for 1,300,000 workers in the United States;

Whereas asbestos-related deaths have greatly increased in the last 20 years and are expected to continue to increase;

Whereas 30 percent of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of virtually all office buildings, public schools, and homes built before 1975; and

Whereas the establishment of a ''National Asbestos Awareness Day'' would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate designates the first day of April 2005 as ''National Asbestos Awareness Day''.

AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 1270, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1270) to amend the Internal Revenue Code of 1986 to extend the Leaking Underground Storage Tank Trust Fund financing rate.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1270) was read the third time and passed.

FINANCIAL LITERACY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 88, submitted earlier today by Senators AKAKA, SARBANES, COCHRAN, BAUCUS, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 88) designating April 2005 as ''Financial Literacy Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 88) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 88

Whereas at the end of 2004, Americans carried 657,000,000 bank credit cards, 228,000,000 debit cards, and 550,000,000 retail credit cards;

Whereas based on the number of total United States households, there are now 6.3 bank credit cards, 2.2 debit cards, and 6.4 retail credit cards per household;

Whereas Americans consumer credit debt continues to increase, and has reached a level of in excess of $2,100,000,000,000 as of year end 2004, of which $791,000,000,000 is revolving consumer credit;

Whereas a United States Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt;

Whereas Americans owe $766,200,000,000 on home equity loans and lines of credit, more than twice as much as in 1998;

Whereas Americans converted $41,000,000,000 in real estate equity into spendable cash in the third quarter of 2004 alone;

Whereas the current level of personal savings as a percentage of personal income is at one of the lowest levels in history, 2 percent, a decline from 7.5 percent in the early 1980s;

Whereas through November 2004, 1,869,343 individuals filed for bankruptcy;

Whereas a 2002 Retirement Confidence Survey found that only 32 percent of workers surveyed have calculated how much money they will need to save for retirement;

Whereas only 30 percent of those surveyed in a 2003 Employee Benefit Trend Study are confident in their ability to make the right financial decisions for themselves and their families, and 25 percent have done no specific financial planning;

Whereas approximately 10 percent of individual households remain unbanked, i.e., not using mainstream, insured financial institutions;

Whereas expanding access to the mainstream financial system provides individuals with lower cost, safer options for managing their finances and building wealth;

Whereas a greater understanding and familiarity with financial markets and institutions will lead to increased economic activity and growth;

Whereas financial literacy empowers individuals to make wise financial decisions and reduces the confusion of an increasingly complex economy;

Whereas the Spring 2004 Student Monitor Financial Services Survey found that 46 percent of college students have a general purpose credit card in their own name and 37 percent carry over a credit card balance from month to month;

Whereas 45 percent of college students are in credit card debt, with the average debt being $3,066;

Whereas only 26 percent of 13- to 21-year-olds reported that their parents actively taught them how to manage money;

Whereas a 2004 study by the Jump$tart Coalition for Personal Financial Literacy found an increase in high school seniors' scores on an exam about credit cards, retirement funds, insurance, and other personal finance basics for the first time since 1997; however, 65 percent of students still failed the exam;

Whereas a 2004 survey of States by the National Council on Economic Education found that 49 States include economics, and 38 States include personal finance, in their elementary and secondary education standards, up from 48 States and 31 States, respectively, in 2002;

Whereas personal financial management skills and life-long habits develop during childhood;

Whereas personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens; and

Whereas Congress found it important enough to ensure coordination of Federal financial literacy efforts and formulate a national strategy that it established the Financial Literacy and Education Commission in 2003 and designated the Office of Financial Education of the Department of the Treasury to provide support for the Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2005 as ''Financial Literacy Month'' to raise public awareness about the importance of financial education in the United States and the serious consequences that may be associated with a lack of understanding about personal finances; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe the month with appropriate programs and activities.

CONGRATULATING THE MONTANA FFA ON ITS 75TH ANNIVERSARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 89 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 89) congratulating the Montana FFA on its 75th anniversary.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. Mr. President, this year marks the 75th anniversary of the Montana FFA, an organization near and dear to my heart. As a former blue jacket myself, I know firsthand how much this organization contributes to the development of leadership skills. A number of my staff, including my chief of staff, are former Montana FFA officers. I couldn't be prouder to introduce today, along with my colleague, Senator BAUCUS, a resolution congratulating the Montana FFA on its 75th anniversary.

With over 2,500 current members from 75 chapters, the Montana FFA provides outstanding career and technical education to students across the State. Over 40,000 Montanans have participated in FFA programs.

As this resolution states, the mission of the FFA, a federally chartered national organization, is to make a positive difference in the lives of students by developing their potential for premier leadership, personal growth, and career success through agriculture education. In Montana, that mission is achieved every day. Whether focusing on public speaking skills, or developing business expertise, or learning about horticulture at the new greenhouse at Park High in Livingston, FFA ensures that our students are ready to embrace all the opportunities the future holds for them.

When the national FFA began in 1928, it did so with just 33 members. Today, it has blossomed into a powerful force for career education, with over 475,000 members. Each year, the halls of Congress are filled with the familiar blue-and-gold jackets, as FFA students from across the nation come to share their thoughts and concerns with us.

The contributions of both the Montana FFA and the national FFA are numerous, and I am pleased to have the opportunity to honor this great organization today. I know this program will continue to flourish and offer our youngsters skills in leadership, personal growth, and career options in the agricultural community as it has done every day since its inception back in Kansas City.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 89) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 89

Whereas in 2005, the Montana FFA, chartered in 1930, celebrates its 75th anniversary as a premier student development organization where members gain life and leadership skills;

Whereas more than 40,000 Montanans have been FFA members;

Whereas Montana FFA alumni provide outstanding leadership to agriculture and agribusiness at the local, State, and Federal levels;

Whereas the Montana FFA Association is the largest career and technical student organization in the State, with over 2,550 members from 75 chapters;

Whereas the mission of the FFA is to make a positive difference in the lives of students by developing their potential for premier leadership, personal growth, and career success through agriculture education;

Whereas FFA is an integral component of agriculture education in the public school system; and

Whereas the National FFA Organization is a federally-chartered organization:

Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Montana FFA on its 75th anniversary; and

(2) directs the Secretary of the Senate to transmit to the Montana FFA an enrolled copy of this resolution for appropriate display.

HOLOCAUST COMMEMORATION WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 90 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 90) designating the week of May 1, 2005, as ''Holocaust Commemoration Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 90) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 90

Whereas the year 2005 marks the 60th anniversary of the end of the Holocaust, which was ruthlessly and tragically carried out by Nazi Germany under the leadership of Adolf Hitler and his collaborators;

Whereas the Holocaust involved the murder of millions of innocent Jewish men, women, and children along with millions of others, and an enormity of suffering inflicted on the many survivors through mistreatment, brutalization, violence, torture, slave labor, involuntary medical experimentation, death marches, and numerous other acts of cruelty that have come to be known as ''genocide'' and ''crimes against humanity''; and

Whereas in the past 60 years, the Holocaust has provided the peoples of the world with an object lesson in the importance of compassion, caring, and kindness; an awareness of the dangers inherent in bigotry, racism, intolerance, and prejudice; and an understanding of the importance of an appreciation of the sensitivity to diversity: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 1, 2005, as ''Holocaust Commemoration Week'';

(2) commemorates the occasion of the 60th anniversary of the end of World War II and the liberation of the concentration camps; and

(3) encourages all Americans to commemorate the occasion through reflection, acts of compassionate caring, and learning about the terrible consequences and lessons of the Holocaust.

EUROPEAN ARMS EMBARGO ON THE PEOPLE'S REPUBLIC OF CHINA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 91 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 91) urging the European Union to maintain its arms export embargo on the People's Republic of China.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH. Mr. President, I rise today to support an updated version of S. Res. 59, which I submitted on February 17 that calls on the European Union to maintain its arms embargo against the People's Republic of China.

I am pleased that all of the original cosponsors of S. Res. 59 are joining me in submitting this revised legislation. This resolution states our strong support of the United States arms embargo on China and urges the European Union to strengthen, enforce, and maintain its embargo as well. It encourages the EU to examine its current arms control policies, close any loopholes, and examine their trade with China inn light of serious human rights concerns.

The human rights abuses at Tiananmen Square in 1989 led the United States and the EU to impose this embargo. Now is not the time to lift it. If the EU proceeds down this road, there will be negative consequences to our relationship—an outcome their officials claim they do not want. This resolution expresses the Senate's view that maintaining the embargo is in our mutual security interests.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 91) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 91

Whereas, on June 4, 1989, the Communist Government of the People's Republic of China ordered the People's Liberation Army to carry out an unprovoked, brutal assault on thousands of peaceful and unarmed demonstrators in Tiananmen Square, resulting

in hundreds of deaths and thousands of injuries;

Whereas, on June 5, 1989, President George H. W. Bush condemned these actions of the Government of the People's Republic of China, and the United States took several concrete steps to respond to the military assault, including suspending all exports of items on the United States Munitions List to the People's Republic of China;

Whereas, on June 27, 1989, the European Union (then called the European Community) imposed an arms embargo on the People's Republic of China in response to the Government of China's brutal repression of protestors calling for democratic and political reform;

Whereas the European Council, in adopting that embargo, ''strongly condemn[ed] the brutal repression taking place in China'' and ''solemnly request[ed] the Chinese authorities. . . to put an end to the repressive actions against those who legitimately claim their democratic rights'';

Whereas the poor human rights conditions that precipitated the decisions of the United States and the European Union to impose and maintain their respective embargoes have not improved;

Whereas the Department of State 2004 Country Reports on Human Rights Practices states that, during 2004, ''[t]he [Chinese] Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses'';

Whereas, according to the same Department of State report, credible sources estimated that hundreds of persons remained in prison in the People's Republic of China for their activities during the June 1989 Tiananmen demonstrations;

Whereas the Government of the People's Republic of China continues to maintain that its crackdown on democracy activists in Tiananmen Square was warranted and remains unapologetic for its brutal actions, as demonstrated by that Government's handling of the recent death of former Premier and Communist Party General Secretary, Zhao Ziyang, who had been under house arrest for 15 years because of his objection to the 1989 Tiananmen crackdown;

Whereas, since December 2003, the European Parliament, the legislative arm of the European Union, has rejected in five separate resolutions the lifting of the European Union arms embargo on the People's Republic of China because of continuing human rights concerns in China;

Whereas the February 24, 2005, resolution passed by the European Parliament stated that the Parliament ''believes that unless and until there is a significant improvement in the human rights situation in China, it would be wrong for the EU to envisage any lifting [of] its embargo on arms sales to China, imposed in 1989'' and that it ''requests that the Commission formally oppose such a move when it is discussed in the [European] Council'';

Whereas the governments of a number of European Union member states have individually expressed concern about lifting the European Union arms embargo on the People's Republic of China, and several have passed resolutions of opposition in their national parliaments;

Whereas the European Union Code of Conduct on Arms Exports, as a non-binding set of principles, is insufficient to control European arms exports to the People's Republic of China;

Whereas public statements by some major defense firms in Europe and other indicators suggest that such firms intend to increase military sales to the People's Republic of China if the European Union lifts its arms embargo on that country;

Whereas the Department of Defense fiscal year 2004 Annual Report on the Military Power of the People's Republic of China found that ''[e]fforts underway to lift the European Union (EU) embargo on China will provide additional opportunities to acquire specific technologies from Western suppliers'';

Whereas the same Department of Defense report noted that the military modernization and build-up of the People's Republic of China is aimed at increasing the options of the Government of the People's Republic of China to intimidate or attack democratic Taiwan, as well as preventing or disrupting third-party intervention, namely by the United States, in a cross-strait military crisis;

Whereas the June 2004, report to Congress of the congressionally-mandated, bipartisan United States-China Economic and Security Review Commission concluded that ''there has been a dramatic change in the military balance between China and Taiwan,'' and that ''[i]n the past few years, China has increasingly developed a quantitative and qualitative advantage over Taiwan'';

Whereas the Taiwan Relations Act (22 U.S.C. 3301 et seq.) codifies in United States law the basis for continued relations between the United States and Taiwan, affirmed that the decision of the United States to establish diplomatic relations with the People's Republic of China was based on the expectation that the future of Taiwan would be determined by peaceful means;

Whereas the balance of power in the Taiwan Straits and, specifically, the military capabilities of the People's Republic of China, directly affect peace and security in the East Asia and Pacific region;

Whereas the Foreign Minister of Japan, Nobutaka Machimura, recently stated that Japan is opposed to the European Union lifting its embargo against the People's Republic of China and that ''[i]t is extremely worrying as this issue concerns peace and security environments not only in Japan but also in East Asia as a whole'';

Whereas the United States has numerous security interests in the East Asia and Pacific region, and the United States Armed Forces, which are deployed throughout the region, would be adversely affected by any Chinese military aggression;

Whereas the lifting of the European Union arms embargo on the People's Republic of China would increase the risk that United States troops could face military equipment and technology of Western or United States origin in a cross-strait military conflict;

Whereas this risk would necessitate a reevaluation by the United States Government of procedures for licensing arms and dual-use exports to member states of the European Union in order to attempt to prevent the reexport or retransfer of United States exports from such countries to the People's Republic of China;

Whereas the report of the United States-China Economic and Security Review Commission on the Symposia on Transatlantic Perspectives on Economic and Security Relations with China, held in Brussels, Belgium and Prague, Czech Republic from November 29, 2004, through December 3, 2004, recommended that the United States Government continue to press the European Union to maintain the arms embargo on the People's Republic of China and strengthen its arms export control system, as well as place limitations on United States public and private sector defense cooperation with foreign firms that sell sensitive military technology to China;

Whereas the lax export control practices of the People's Republic of China and the continuing proliferation of technology related to weapons of mass destruction and ballistic missiles by state-sponsored entities in China remain a serious concern of the Government of the United States;

Whereas the People's Republic of China remains a primary supplier of weapons to countries such as Burma and Sudan where, according to the United States Commission on International Religious Freedom, the military has played a key role in the oppression of religious and ethnic minorities;

Whereas the most recent Central Intelligence Agency Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, found that ''Chinese entities continued to work with Pakistan and Iran on ballistic missile-related projects during the second half of 2003,'' and that ''[d]uring 2003, China remained a primary supplier of advanced conventional weapons to Pakistan, Sudan, and Iran'';

Whereas, as recently as December 27, 2004, the Government of the United States determined that seven entities or persons in the People's Republic of China, including several state-owned companies involved in China's military-industrial complex, are subject to sanctions under the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) for sales to Iran of prohibited equipment or technology;

Whereas the authority under the Iran Nonproliferation Act of 2000 to impose sanctions on Chinese persons or entities was used 23 times in 2004; and

Whereas the assistance provided by these entities to Iran works directly counter to the efforts of the United States Government and several European governments to curb illicit weapons activities in Iran: Now, therefore, be it

Resolved, That the Senate—

(1) strongly supports the United States embargo on the People's Republic of China;

(2) strongly urges the European Union to continue its ban on all arms exports to the People's Republic of China;

(3) requests that the President raise United States objections to the potential lifting of the European Union arms embargo against the People's Republic of China in any upcoming meetings with European officials;

(4) encourages the Government of the United States to make clear in discussions with representatives of the national governments of European Union member states that a lifting of the European Union embargo on arms sales to the People's Republic of China would potentially adversely affect transatlantic defense cooperation, including future transfers of United States military technology, services, and equipment to European Union countries;

(5) urges the European Union—

(A) to strengthen, enforce, and maintain its arms embargo on the People's Republic of China and in its Code of Conduct on Arms Exports;

(B) to make its Code of Conduct on Arms Exports legally binding and enforceable in all European Union member states;

(C) to more carefully regulate and monitor the end-use of exports of sensitive military and dual-use technology; and

(D) to increase transparency in its arms and dual-use export control regimes;

(6) deplores the ongoing human rights abuses in the People's Republic of China; and

(7) urges the United States Government and the European Union to cooperatively develop a common strategy to seek—

(A) improvement in the human rights conditions in the People's Republic of China;

(B) an end to the military build-up of the People's Republic of China aimed at Taiwan;

(C) a permanent and verifiable end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of munitions, materials, and military equipment and the trade in such items involving countries, such as Burma and Sudan, whose armies have played a role in the perpetration of violations of human rights and of humanitarian law against members of ethnic and religious minorities;

(D) improvement in the administration and enforcement of export controls in the People's Republic of China; and

(E) an end to the ongoing proliferation by state and non-state owned entities and individuals in the People's Republic of China of technology related to conventional weapons, weapons of mass destruction, and ballistic missiles.

AUTHORIZATION TO SIGN LEGISLATION

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader, the assistant majority leader, and the senior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96–388, as amended by Public Law 97–84 and Public Law 106–292, appoints the following Senators to the United States Holocaust Memorial Council:

The Senator from Wisconsin, Mr. Feingold, and the Senator from New Jersey, Mr. Lautenberg.

TERRI SCHIAVO

Mr. FRIST. Mr. President, in closing tonight, I will take a few final moments to speak on an issue that I opened with early this morning, about 14 hours ago, an issue which Senators MARTINEZ and SANTORUM were on the floor speaking to about 45 minutes ago. It has to do with the Terri Schiavo case in Florida.

I close this evening speaking more as a physician than as a U.S. Senator and speak to my involvement as a physician and as a Senator and as leader in the Senate in what has been a fascinating course of events for us over the last 48 hours, a saga which has not ended but one which we took major steps toward tonight in seeing that this woman is not starved to death tomorrow beginning at 1 o'clock, about 13 hours from now.

When I first heard about the situation facing Terri Schiavo, I immediately wanted to know more about the case from a medical standpoint. I asked myself, just looking at the newspaper reports, is Terri clearly in this diagnosis called persistent vegetative state. I was interested in it in part because it is a very difficult diagnosis to make and I have been in a situation such as this many, many times before as a transplant surgeon.

When we do heart transplants and lung transplants—and they are done routinely and were done routinely at the transplant center that I directed at Vanderbilt—in each and every case when you do a heart transplant or a lung transplant or a heart-lung transplant, the transplanted organs come from someone who is brain dead and death is clearly defined with a series of standardized clinical exams over a period of time, as well as diagnostic tests.

Even brain death is a difficult diagnosis to make, and short of brain death, there are stages of incapacitation that go from coma to this persistent vegetative state to a minimally conscious state. They are tough diagnoses to make. You can make brain death with certainty, but short of that it is a difficult diagnosis and one that takes a series of evaluations over a period of time because of fluctuating consciousness.

So I was a little bit surprised to hear a decision had been made to starve to death a woman based on a clinical exam that took place over a very short period of time by a neurologist who was called in to make the diagnosis rather than over a longer period of time. It is almost unheard of. So that raised the first question in my mind.

I asked myself, does Terri clearly have no hope of being rehabilitated or improved in any way? If you are in a true persistent vegetative state, that may be the case. But, again, it is a very tough diagnosis to make and only by putting forth that rehabilitative therapy and following over time do you know if somebody is going to improve. At least from the reporting, that has not been the case.

Then I asked myself, because we have living wills now and we have written directives which are very commonplace now, but 10 years ago they were not that common and, to be honest with you, a lot of 20- and 30-year-olds do not think about their own mortality and do not offer those written directives. They did not 10 years ago. Now they do with increasing frequency. I encourage people to do that.

So, I asked, did they have a written directive? And the answer was no. And did she have a clear-cut oral directive? And the answer was no.

So my curiosity piqued as I asked to see all of the court affidavits. I received those court affidavits and had the opportunity to read through those over the last 48 hours. My curiosity was piqued even further because of what seemed to be unusual about the case, and so I called one of the neurologists who did evaluate her and evaluated her more extensively than what at least was alleged other neurologists had. And he told me very directly that she is not in a persistent vegetative state. I said, well, give me a spectrum from this neurologist who examined her. To be fair, he examined her about 2 years ago and, to the best of my knowledge, no neurologist has been able to examine her. I am not positive about that, but that is what I have been told in recent times. But at that exam, clearly she was not in a persistent vegetative state, and of 100 patients this neurologist would take care of, she was not at the far end of being an extreme patient in terms of her disability. He described it as if there were 100 patients, she might have been the 70th but not the 80th or 90th or 100th.

So I was really curious that a neurologist who has spent time with her says she is not in a persistent vegetative state but they will begin starving her to death tomorrow at 1 o'clock because of what another neurologist said.

I met with her family and her son. Her son says she has a severe disability. A lot of people have severe disabilities, such as cerebral palsy and receptive aphasia, but her brother said that she responds to her parents and to him. That is not somebody in persistent vegetative state.

I then met in person with the chairman of the Judiciary Committee 2 days ago in Florida to discuss the case. He told me that they had exhausted all options in the State of Florida to reverse what was going to be inevitable tomorrow, Friday, the 18th of March; and that is, that feedings and hydration were going to stop, that everything had been exhausted.

He said the courts have been exhausted, and that all of the court decisions and the court cases had not been based on the facts because the facts were very limited and were the conclusions of one judge and two neurologists, and that was it, and that there were, in terms of the affidavits—I will get the exact number that I read—there were something like 34 affidavits from other doctors, who said that she could be improved with rehabilitation.

So then it came to, what do you do? Here is the U.S. Senate that normally does not and should not get involved in all of these private-action cases. It is not our primary responsibility here in the U.S. Senate. But with an exhaustion of a State legislature, an exhaustion of the court system in a State—yet all of this is based on what one judge had decided on what, at least initially, to me, looks like wrong data, incomplete data. But somebody is being condemned to death—somebody who is alive; there is no question she is alive—is being condemned to death.

It takes an action to pull out a feeding tube. It takes an action to stop feeding. The inaction of feeding becomes an action. And thus, as I started talking about it this morning, the question was, what do we do? Bills had been put forth broadly on the floor, and Senator MARTINEZ had very effective legislation, but it had to do with the habeas corpus, a very large issue that we have not had hearings on and debated.

So what we decided to do was to fashion a bill that was very narrow, aimed

specifically at this case that would say she is not going to be starved to death tomorrow, but let's go and collect more information, have neurologists come in and obtain a body of facts before such a decision would be made.

That is what we have done. As Senator MARTINEZ said, and Senator SANTORUM said, we are not there yet. We have three different tracks going on that will be going on over the course of tonight. In my office, right now, letters are being written and being sent out, and we will not give up, and we have not given up. We passed the bill here tonight. The House has a bill. And I am confident if we continue working, and we are going to stay in session—we are not staying in session tonight but we are going to stay in session until we complete action.

Let me just comment a little bit about the Terri Schiavo case because what I said is how we got involved. What I am about to say is a little bit more information than we have been able to talk about on the floor today because of the focus on the Budget Committee, although when we were just off the floor in the cloakroom behind us and in my office, we have been going nonstop on this all day long—all day long.

Terri Schiavo is right now in a Florida hospice. She is breathing on her own. So she does not have a ventilator keeping her lungs expanding. She is breathing on her own. She is not a terminal case. She is, as I said, disabled. Under court order, this feeding tube was to be removed tomorrow, in about 14 hours from now. When her feeding tube is removed, she does not receive food; she starves to death. She has no hydration and she becomes dehydrated, has cardiovascular collapse, her heart and lungs would work overtime, and, of course, she would die.

Her parents, Bob and Mary Schindler, have been fighting for over 10 years to prevent her death. Imagine, if you and your spouse had a daughter, and you said: Don't let her die. We will take care of her. We will financially take care of her. How in the world can you have somebody come in and remove a feeding tube? That is what they have been saying for 10 years. They love her. They say that she responds to them. They would welcome the chance—welcome the chance—to be her guardian.

As I understand it, Terri's husband will not divorce Terri and will not allow her parents to take care of her. Terri's husband, who I have not met, does have a girlfriend he lives with, and they have children of their own.

A single Florida judge ruled that Terri is in this persistent vegetative state. And this is the same judge who has denied new testing, new examinations of Terri by independent and qualified medical professionals. They have not been allowed.

As I mentioned, the attorneys for Terri's parents have submitted 33 affidavits from doctors and other medical professionals, all of whom say that Terri should be re-evaluated. About 15—I read through the affidavits—and about 14 or 15 of these affidavits are from board certified neurologists. Some of these doctors, very specifically, say they believe, on the data they had seen, that Terri could benefit from therapy.

There have been many comments that her legal guardian, that is Terri's husband, has not—it ranges. It is either that he has not been aggressive in rehabilitation, to other reports saying that he has thwarted rehabilitation since 1992. I can only report what I have read there because I have not met him.

Persistent vegetative state, which is what the court has ruled, I say that I question it, and I question it based on a review of the video footage which I spent an hour or so looking at last night in my office here in the Capitol. And that footage, to me, depicted something very different than persistent vegetative state.

One of the classic textbooks we use in medicine today is called ''Harrison's Principles of Internal Medicine.'' And in the 16th edition, which was published just this year, 2005, on page 1625, it reads:

> . . . the vegetative state signifies an awake but unresponsive state. These patients have emerged from coma after a period of days or weeks to an unresponsive state in which the eyelids are open, giving the appearance of wakefulness.

This is from ''Harrison's Principles of Internal Medicine.''

This ''unresponsive state in which the eyelids are open''—I quote that only because on the video footage, which is the actual exam by the neurologist, when the neurologist said, ''Look up,'' there is no question in the video that she actually looks up. That would not be an ''unresponsive state in which the eyelids are open.''

Skipping on down to what the Harrison's textbook says about ''vegetative state,'' I quote:

> There are always accompanying signs that indicate extensive damage in both cerebral hemisphere, e.g. decerebrate or decorticate limb posturing and absent responses to visual stimuli.

And then, let me just comment, because it says: ''absent responses to visual stimuli.'' Once again, in the video footage—which you can actually see on the Web site today—she certainly seems to respond to visual stimuli that the neurologist puts forth.

And lastly—I will stop quoting from the classic internal medicine textbook—one other sentence:

> In the closely related minimally conscious state the patient may make intermittent rudimentary vocal or motor responses.

I would simply ask, maybe she is not in this vegetative state and she is in this minimally conscious state, in which case the diagnosis upon which this whole case has been based would be incorrect.

Fifteen neurologists have signed affidavits that Terri should have additional testing by unbiased, independent neurologists. I am told that Terri never had an MRI or a PET scan of her head, and that disturbs me only because it suggests she hasn't been fully evaluated by today's standards. You don't have to have an MRI or PET scan to make a diagnosis of persistent vegetative state, but if you are going to allow somebody to die, starve them to death, I would think you would want to complete a neurological exam. She has not had an MRI or a PET scan, which suggests she has not had a full neurological exam.

I should also note that the court sided with the testimony of Dr. Ronald Cranford, who is an outspoken advocate of physician-assisted suicide.

A 1996 British Medical Journal study conducted in England's Royal Hospital for Neurodisability concluded there was a 43 percent error rate in the diagnosis of PVS. It takes a lot of time, as I mentioned earlier, to make this diagnosis with a very high error rate. If you are going to be causing somebody to die with purposeful action, like withdrawal of the feeding tube, you are not going to want to make a mistake in terms of the diagnosis.

I mentioned that Terri's brother told me Terri laughs, smiles, and tries to speak. That doesn't sound like a women in a persistent vegetative state. So the Senate has acted tonight and the House of Representatives acted last night. The approaches are different, and over the course of tonight and tomorrow, I hope we can resolve those differences. It is clear to me that Congress has a responsibility, since other aspects of government at the State level had failed to address this issue, that we do have a responsibility given the uncertainties that I have outlined over the last few minutes.

Remember, she has family members—her parents and brother—who say they love her, they will take care of her, they will be responsible for her, and they will support her. There seems to be insufficient information to conclude that Terry Schiavo is in a persistent vegetative state. Securing the facts, I believe, is the first and proper step at this juncture. Whoever spends time making the diagnosis with Terri needs to spend enough time to make an appropriate diagnosis.

At this juncture, I don't see any justification in removing hydration and nutrition. Prudence and caution and respect for the dignity of life must be the undergirding principles in this case.

I will close with an e-mail a friend sent me once they saw that we in this body were involved in this case. It reads:

> I know you are dealing with so many major issues, but I believe this one threatens to send us down another shameful path we may never recover from.
>
> I don't think I ever had an occasion to tell you that I have a severely brain damaged adult daughter that I cared for in my home for 20 years. Sasha's functioning level is far below Terri's, but she has been such a blessing in my life. Dietrich Bonhoffer said, ''Not

only do the weak need the strong, but the strong need the weak.'' It's hard to explain that in a day and age where physical perfection is so highly valued, but I know it to be true.

Senator Frist, as you fight this battle today, hold fast. If ever the weak needed a champion, it is now.

on behalf of my sweet Sasha . . .

Then the e-mail is signed.

I close tonight with those powerful words.

ORDERS FOR MONDAY, MARCH 21, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 4 p.m. on Monday, March 21; I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. On Monday, the Senate will convene for a short period of morning business. There will be no rollcall votes, although we hope to finish our business with respect to the legislation relating to my comments on the Theresa Marie Shiavo case.

I want to take this opportunity to thank Chairman GREGG and Senator CONRAD for the tremendous, outstanding work on the budget resolution this week. Today alone, we conducted 25 votes to complete this resolution. Although it was not a record in terms of votes in 1 day, I would guess that we broke the land speed record as to the greatest number of votes in the shortest timeframe. We started voting at 1:17 and finished our last vote just after 10 p.m. It is ironic, but last night, I believe, on the floor in the evening we predicted—and it is rare to predict—that we would finish sometime around 10 p.m. tonight, and indeed we may have missed it by a couple of minutes.

I thank all of our colleagues for their patience and endurance. I hope we finish our work on the Schiavo issue early next week and, if so, we will begin the Easter break.

ADJOURNMENT UNTIL MONDAY, MARCH 21, 2005 AT 4 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:48 p.m., adjourned until Monday, March 21, 2005, at 4 p.m.

NOMINATIONS

Executive nominations received by the Senate March 17, 2005:

DEPARTMENT OF TRANSPORTATION

JOSEPH H. BOARDMAN, OF NEW YORK, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION, VICE ALLAN RUTTER, RESIGNED.

DEPARTMENT OF STATE

JOHN ROBERT BOLTON, OF MARYLAND, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

JOHN ROBERT BOLTON, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE MICHAEL O. LEAVITT.

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN D. NEGROPONTE, OF NEW YORK, TO BE DIRECTOR OF NATIONAL INTELLIGENCE. (NEW POSITION)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ROBERT B. ROTTSCHAFER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHRISTINE A. LIDDLE, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CECIL D. ALLEN, 0000
LAWRENCE J. ASHLEY, 0000
WAYNE E. KOWAL, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

THOMAS E. BERON, 0000
ANDREW R. BRADBURY, 0000
KENNETH J. VEGA, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRAD K. BLACKNER, 0000
KEVIN M. CIEPLY, 0000
WILLARD G. FINCH, 0000
MORRIS E. NELSON, 0000
MARVIN A. ZERR, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL J. BOUCHARD, 0000
PHILIP E. DYER, 0000
CAROL A. EGGERT, 0000
JOHN T. GERESKI, JR, 0000
DEBRA A. ROSE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT AS PERMANENT PROFESSORS AT THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333(B):

To be lieutenant colonel

GREGORY L. DANIELS, 0000
MICHAEL D. PHILLIPS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

CINDY W. BALTRUN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

RICHARD L. URSONE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

THANH MINH DO, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

To be major

LORINE LAGATTA, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531 AND 624:

To be major

GARY ZEITZ, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

AMY V. DUNNING, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID J. WILSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL AKSELRUD, 0000

THE FOLLOWING NAMED OFFICERS FOR ORIGINAL REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589:

To be captain

CHARLES R. BAUGHN, 0000
CHRISTOPHER F. BERGERON, 0000
ROBERT BOYERO, 0000
KEITH D. BURGESS, 0000
RICHARD CANEDO, 0000
CHRISTOPHER J. COX, 0000
DOUGLAS R. CUNNINGHAM, 0000
CHRISTOPHER A. DAVIS, 0000
MORRIS A. DESIMONE III, 0000
DANIEL E. DESMIT, 0000
JOHN DIGIOVANNI, 0000
MICHAEL D. DODSON, 0000
JAMES S. DUCKER, 0000
MICHAEL W. DUNCAN, 0000
CHRISTOPHER S. EICHNER, 0000
RICHARD D. EKBORG, 0000
JOSE A. FALCHE, 0000
CHRISTOPHER L. FIELDS, 0000
PEDRO B. GOMEZ, 0000
MICHAEL A. GRAHAM, 0000
GERALD D. HABIGER, 0000
KYLE B. HANNER, 0000
JULIE C. HENDRIX, 0000
MARK L. HOBIN, 0000
BRANDEE G. HOLBROOK, 0000
JOHN L. HYATT, JR., 0000
DONALD A. JOHNSON, 0000
TROY A. KACZMARSKI, 0000
DANIEL C. KOCH, 0000
THOMAS J. LIPPERT, 0000
JUNIOR L. LOGAN, 0000
ROBERT M. MANNING, 0000
LUIS A. MARIN, 0000
LARRY MIYAMOTO, 0000
CHRISTOPHER N. NORRIS, 0000
TERRY G. NORRIS, 0000
RICHARD P. OWENS, 0000
PAUL E. QUICKENTON, 0000
DONALD E. REID, JR., 0000
JAMES R. REUSSE, JR., 0000
JAMES C. ROSE, 0000
RONALD J. ROSTEK, JR., 0000
MARK S. ROY, 0000
SHANNON W. SIMS, 0000
SAMUEL W SPENCER III, 0000
BRIAN J SPOONER, 0000
BRYAN S TEET, 0000
JAMES R TOWNEY, 0000
WILLIAM C TRAQUAIR, 0000
BRIAN L WHITE, 0000
TIMOTHY P WOODRING, 0000
PHILLIP J WOODWARD, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate March 17, 2005:

DEPARTMENT OF STATE

DAVID B. BALTON, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES.

JOSEPH R. DETRANI, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE SIX PARTY TALKS.

JOHN THOMAS SCHIEFFER, OF TEXAS, TO BE AMBASSADOR TO JAPAN.

R. NICHOLAS BURNS, OF MASSACHUSETTS, TO BE AN UNDER SECRETARY OF STATE (POLITICAL AFFAIRS).

C. DAVID WELCH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (NEAR EASTERN AFFAIRS).

CHRISTOPHER R. HILL, OF RHODE ISLAND, TO BE AN ASSISTANT SECRETARY OF STATE (EAST ASIAN AND PACIFIC AFFAIRS).

RUDOLPH E. BOSCHWITZ, OF MINNESOTA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF ENERGY

JEFFREY CLAY SELL, OF TEXAS, TO BE DEPUTY SECRETARY OF ENERGY.

NATIONAL SECURITY EDUCATION BOARD

GEORGE M. DENNISON, OF MONTANA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

JAMES WILLIAM CARR, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

KIRON KANINA SKINNER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF THE TREASURY

HAROLD DAMELIN, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CLAUDE R. KEHLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL ROBERT R. ALLARDICE
COLONEL C. D. ALSTON
COLONEL THOMAS K. ANDERSEN
COLONEL BROOKS L. BASH
COLONEL MICHAEL J. BASLA
COLONEL FRANCIS M. BRUNO
COLONEL HERBERT J. CARLISLE
COLONEL GARY S. CONNOR
COLONEL CHARLES R. DAVIS
COLONEL DANIEL R. DINKINS, JR.
COLONEL GREGORY A. FEEST
COLONEL FRANK GORENC
COLONEL BLAIR E. HANSEN
COLONEL MARY K. HERTOG
COLONEL JIMMIE C. JACKSON, JR.
COLONEL FRANK J. KISNER
COLONEL JAMES M. KOWALSKI
COLONEL DONALD LUSTIG
COLONEL CHRISTOPHER D. MILLER
COLONEL HAROLD W. MOULTON II
COLONEL JOSEPH F. MUDD, JR.
COLONEL MARK H. OWEN
COLONEL ELLEN M. PAWLIKOWSKI
COLONEL ROBIN RAND
COLONEL JOSEPH M. REHEISER
COLONEL JOSEPH REYNES, JR.
COLONEL ALBERT F. RIGGLE
COLONEL PAUL G. SCHAFER
COLONEL STEPHEN D. SCHMIDT
COLONEL MARK S. SOLO
COLONEL JANET A. THERIANOS
COLONEL ROBERT YATES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JAMES J. DOUGHERTY III
COL. PATRICIA C. LEWIS

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STANLEY E. GREEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. CHARLES K. EBNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JAMES O. BARCLAY III
COL. ARTHUR M. BARTELL
COL. DONALD M. CAMPBELL, JR.
COL. DENNIS E. ROGERS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL BYRON S. BAGBY
BRIGADIER GENERAL VINCENT E. BOLES
BRIGADIER GENERAL THOMAS P. BOSTICK
BRIGADIER GENERAL HOWARD B. BROMBERG
BRIGADIER GENERAL SEAN J. BYRNE
BRIGADIER GENERAL CHARLES A. CARTWRIGHT
BRIGADIER GENERAL THOMAS R. CSRNKO
BRIGADIER GENERAL JOHN DEFREITAS III
BRIGADIER GENERAL ROBERT E. DURBIN
BRIGADIER GENERAL DAVID A. FASTABEND
BRIGADIER GENERAL CHARLES W. FLETCHER, JR.
BRIGADIER GENERAL DANIEL A. HAHN
BRIGADIER GENERAL RHETT A. HERNANDEZ
BRIGADIER GENERAL MARK P. HERTLING
BRIGADIER GENERAL CHARLES H. JACOBY, JR.
BRIGADIER GENERAL JEROME JOHNSON
BRIGADIER GENERAL GARY M. JONES
BRIGADIER GENERAL WILLIAM M. LENAERS
BRIGADIER GENERAL DOUGLAS E. LUTE
BRIGADIER GENERAL BENJAMIN R. MIXON
BRIGADIER GENERAL JAMES R. MYLES
BRIGADIER GENERAL ROGER A. NADEAU
BRIGADIER GENERAL DAVID M. RODRIGUEZ
BRIGADIER GENERAL RICHARD J. ROWE, JR.
BRIGADIER GENERAL JEFFREY J. SCHLOESSER
BRIGADIER GENERAL JEFFREY A. SORENSON
BRIGADIER GENERAL ABRAHAM J. TURNER
BRIGADIER GENERAL ROBERT M. WILLIAMS
BRIGADIER GENERAL RICHARD P. ZAHNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DONALD L. JACKA, JR.

To be brigadier general

COL. JERRY D. LA CRUZ, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. EVAN M. CHANIK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. BARRY M. COSTELLO

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH ARLENE D. ADAMS AND ENDING WITH ROBERT G. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 8, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH ERIK L. ABRAMES AND ENDING WITH DUOJIA XU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

AIR FORCE NOMINATION OF STEVEN F. RECK TO BE COLONEL.

AIR FORCE NOMINATION OF MARK D. MILLER TO BE COLONEL.

AIR FORCE NOMINATION OF NANCY B. GRANE TO BE COLONEL.

AIR FORCE NOMINATION OF JACK M. DAVIS TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH RAMON MORALES AND ENDING WITH FRANK M. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH RICHARD E. ANDO, JR. AND ENDING WITH KENNETH S. PAPIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH STEPHEN H. GREGG AND ENDING WITH ROBERT L. SHAW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN P. ALBRIGHT AND ENDING WITH LOUIS B. MILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH LESTER H. BAKOS AND ENDING WITH GREGORY G. MOVSESIAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH CHARLES M. BOLIN AND ENDING WITH JAMES A. WITHERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH BRUCE STEUART AMBROSE AND ENDING WITH PATRICIA L. WILDERMUTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH KAREN A. BALDI AND ENDING WITH PAUL E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH VICKIE Z. BECKWITH AND ENDING WITH GAYLE SEIFULLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH PAUL N. AUSTIN AND ENDING WITH FLORENCE A. VALLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH EDMUND O. ANDERSON AND ENDING WITH SCOTT A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 1, 2005.

AIR FORCE NOMINATION OF KENNETH M. FRANCIS TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF VITO MANENTE TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF JEFFREY H. WILSON TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID C. ABRUZZI AND ENDING WITH MICHAEL J. ZUBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH STEVEN G. ALLRED AND ENDING WITH JOHN R. WROCKLOFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH TRAVIS R. ADAMS AND ENDING WITH WENDY J. WYSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTOPHER N. AASEN AND ENDING WITH RONALD J. ZWICKEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH PETER W. AUBREY AND ENDING WITH JEFFREY K. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 2005.

ARMY NOMINATIONS BEGINNING WITH MICHAEL J. ARINELLO AND ENDING WITH JAMES E. WHALEY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 2005.

ARMY NOMINATIONS BEGINNING WITH DONNA A. ALBERTO AND ENDING WITH DOUGLAS A. WILD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 2005.

ARMY NOMINATIONS BEGINNING WITH RONALD P. ALBERTO AND ENDING WITH X2800, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 2005.

ARMY NOMINATION OF GERALD L. DUNLAP TO BE COLONEL.

ARMY NOMINATION OF ROBERT D. SAXON TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH RICHARD R. GUZZETTA AND ENDING WITH ROBERT J. JOHNSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATIONS BEGINNING WITH JAMES R. HAJDUK AND ENDING WITH FRITZ W. KIRKLIGHTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATIONS BEGINNING WITH BRIAN E. BACA AND ENDING WITH ANTHONY E. BAKER, SR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATION OF WILLIAM T. MONACCI TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH BRIAN J. TENNEY AND ENDING WITH KAREN T. WELDEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

ARMY NOMINATIONS BEGINNING WITH DAVID J. BRICKER AND ENDING WITH WAYNE A. STELTZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

ARMY NOMINATIONS BEGINNING WITH LARRY N. BARBER AND ENDING WITH DAVID D. WORCESTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

ARMY NOMINATIONS BEGINNING WITH HAYS L. ARNOLD AND ENDING WITH WILLIAM C. OTTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

ARMY NOMINATION OF JOHN P. GUERREIRO TO BE MAJOR.

ARMY NOMINATION OF EVELYN I. RODRIGUEZ TO BE MAJOR.

ARMY NOMINATION OF DEMETRES WILLIAM TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH KENNETH A. BEARD AND ENDING WITH KAREN E. SEMERARO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

ARMY NOMINATIONS BEGINNING WITH STANLEY P. ALLEN AND ENDING WITH HENRY J. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH ROBERT S. ABBOTT AND ENDING WITH RONALD M. ZICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 2005.

MARINE CORPS NOMINATIONS BEGINNING WITH CARLTON W. ADAMS AND ENDING WITH WAYNE R. ZUBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2005.

MARINE CORPS NOMINATIONS BEGINNING WITH KEITH R. ANDERSON AND ENDING WITH GARY K. WORTHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2005.

MARINE CORPS NOMINATIONS BEGINNING WITH MICHAEL S. DRIGGERS AND ENDING WITH ROBERT R. SOMMERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 8, 2005.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH DONALD R. BENNETT AND ENDING WITH GEORGE B. YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 28, 2005.

NAVY NOMINATION OF MATTHEW S. GILCHRIST TO BE LIEUTENANT.